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THE ROMAN MIDDLE CLASS  
IN THE REPUBLICAN PERIOD

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# The Roman Middle Class in the Republican Period

BY

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TO MY  
FATHER AND MOTHER

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## PREFACE

THE title Middle Class is here applied to the equestrian order, which is described by the Elder Pliny (XXXIII, 34) as a *tertium corpus* which inserted itself between the senatorial class and the mass of the Roman people. I have also used to allude to this class the Latin word Equites. This usage should be distinguished from that of *equites* (in italics), which means 'cavalry'. I have avoided the term 'knights', commonly used in this connection, because it seems to me inappropriate.

The subject is so large and the ancient authorities so often inadequate and even contradictory that it is inevitable that there should be many points on which it is possible to disagree. I have tried always to give full weight to the ancient evidence and, where more than one possible explanation of a difficulty exists, to give references to expositions of the theories I have rejected.

I should like to express my gratitude to the Press Board of the University of Wales and to the University of Sheffield for generous help towards the cost of publishing this book. Thanks are due also to Professor B. Farrington, who read through the manuscript and enabled me to remove obscurities, and to my wife for help with the proofs.

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## ABBREVIATIONS

<i>A.J.P.</i>	<i>American Journal of Philology.</i>
<i>B.C.H.</i>	<i>Bulletin de correspondance hellénique.</i>
<i>C.A.H.</i>	<i>Cambridge Ancient History.</i>
<i>C.I.L.</i>	<i>Corpus Inscriptionum Latinarum.</i>
<i>C.Ph.</i>	<i>Classical Philology.</i>
<i>C.Q.</i>	<i>Classical Quarterly.</i>
<i>C.R.</i>	<i>Classical Review.</i>
Dessau, <i>I.L.S.</i>	<i>Inscriptiones Latinae Selectae.</i>
Dittenberger, <i>Syll.</i>	<i>Sylloge Inscriptionum Graecarum.</i>
<i>F.H.G.</i>	<i>Fragmenta Historicorum Graecorum (Müller).</i>
<i>I.G.</i>	<i>Inscriptiones Graecae.</i>
<i>J.R.S.</i>	<i>Journal of Roman Studies.</i>
<i>P.-W.</i>	<i>Pauly-Wissowa, Real-Encyclopädie.</i>
<i>T.A.Ph.A.</i>	<i>Transactions of the American Philological Association.</i>

NOTE: Modern works referred to by the name of the author only are listed in Part I of the Bibliography. Abbreviations of the titles of modern works whose meaning is not obvious will be found in brackets alongside the full titles in the Bibliography.

References to Asconius are to pages of the edition of A. C. Clark in the Oxford Classical Texts (1907).

References to Festus are to pages in W. M. Lindsay's Teubner edition (1913).



# THE ROMAN MIDDLE CLASS IN THE REPUBLICAN PERIOD

## CHAPTER I

### THE CAVALRY

THE Latin name for the Middle Class of Rome, *equites* or *equester ordo*, is in itself a sufficient indication of the fact that this class derived ultimately from the cavalry. Indeed, its early history is nothing but the history of Rome's cavalry, first in its military, and later in both its military and civilian aspects. A history of the Roman Middle Class must, therefore, begin with a study of Rome's cavalry from the earliest times. Such a study involves all the difficulties which beset any historian of early Rome—inadequate and unreliable sources, masses of ingenious theories, both ancient and modern, and a complete lack of certainty on almost every point. Yet the difficulties must be faced because the history of the Equites is inextricably bound up with the history of Rome itself. From the very beginning when, in Rome's army, the distinction was clearly marked between cavalry and infantry, to the end of the Republic, when the Equites formed a *tertium corpus* standing between Senate and people, there is no period when they do not play an essential part in the military, social and political history of the city.

All the evidence which the early annalists had about the cavalry of the regal period consisted, like that about everything else in that period, of a few traditions buried in a mass of myths and some survivals so old that their meaning was largely a matter of conjecture. Their successors, from whom we draw practically all our information, took over this evidence and, no doubt, embroidered it with their own conjectures. Therefore the testimony of Livy, Dionysius of Halicarnassus, Plutarch and Cicero, on whom we chiefly rely, contains only a kernel of truth which it is the business of the modern historian to extract. Modern scholars have attempted, in various ways, to fill out the facts thus obtained into some sort of consistent history, but the usual result is to leave the original facts again obscured by masses of theories, many of which are hardly less fantastic than those of the

ancient writers. All that can be done is to present the information of which we can be reasonably certain, and adopt such interpretations and expansions of it as seem most likely to be correct.

The cavalry in ancient Rome, as in other ancient states, held a superior position to that of the infantry. It derived, no doubt, from an aristocracy fighting in war-chariots, though all recognizable trace of that earlier stage has been lost.<sup>1</sup> In ancient historians the cavalry appears as a body of noble youths bearing the brunt of the battle and setting an example to the infantry in times of difficulty and danger. It is they who, by the sheer weight and ferocity of their charge, burst through the enemy's ranks and start the rout. When the infantry loses courage and wavers, the cavalry can always be relied upon to make a fresh onslaught and rally the breaking line. Frequently they dismount and fight bravely on foot, even winning battles without any help from cowardly or mutinous infantry. Behind such a conception of the cavalry there is probably some tradition with a core of truth, but it contrasts strangely with what we know of the Roman army at the period of its greatest success. For the main strength of that army lay in its infantry, and the cavalry, though retaining its superior status, played but a minor part. Moreover, Polybius<sup>2</sup> tells us that the ancient Roman cavalry was very lightly armed and equipped, and so unable to fight effectively at close quarters.

An explanation of this curious contradiction is probably to be found in the 'mounted hoplite' theory of W. Helbig.<sup>3</sup> This scholar may be said to have proved, by using both literary and archaeological evidence, that the early *equites* were not true cavalry at all but mounted hoplites, similar to the *ἵππεις* of Athens and other Greek cities. Equipped as heavy armed infantry, they used their horses mainly, if not entirely, as a means of getting to and from the field of battle and for pursuit of a beaten enemy. They fought on foot, and naturally, being the first on the field, they bore the brunt of the battle. The later historians, knowing nothing of this but having traditions of the ancient prowess of the cavalry, ascribed these feats to the later true cavalry. It is clear from Polybius that at some time far enough away to have been forgotten the *equites* did become true

<sup>1</sup> Some scholars (e.g. Hüllmann quoted by Huschke, *Die Verfassung*, 341) see traces of the war-chariot period in the old titles of the cavalry, *trossuli* and *flexumines*—but this is pure conjecture.

<sup>2</sup> VI, 25, 3.

<sup>3</sup> *Die Equites als berittene Hopliten; Contribution à l'histoire de l'équitation romaine; Sur les attributs des Saliens*. For criticisms of the theory see E. Meyer, *Kleine Schrift.* II, 274 f.; B. Niese in *Hist. Zeitsch.* XCVIII (1907), 283 f.; J. Wiesner in *Klio* XVIII (1943), 45 f.

cavalry. No date for this change can be deduced from his words, but some scholars have tried to use for this purpose a rhetorical fragment belonging apparently to the first century A.D. The author of this, who may have used Fabius Pictor or Posidonius, says that, until the Samnite Wars, the Romans 'had no strength in cavalry but the whole or the bulk of their power lay in their infantry', but that they created a cavalry force and defeated their enemies by imitating the Samnites. Though the passage contains the favourite rhetorical commonplace about the Romans learning from their enemies, it is impressive merely because it is so much at variance with what other ancient writers tell us.<sup>1</sup> It is possible that the original title of the mounted hoplites was not *equites*. The names *trossuli*<sup>2</sup> and *flexuntes* or *flexumines*<sup>3</sup> are mentioned as old titles for them; but these are so ancient that, leaving aside explanations based on etymology and therefore highly speculative, we have no information about them at all.<sup>4</sup>

Some ancient writers identify the cavalry with the *celeres* who, according to others, were the bodyguard of the kings. Though most modern scholars have accepted the former version and have freely used evidence relating to the *celeres* in their accounts of the early cavalry, it is clear that there were two different traditions about the *celeres* and it is therefore safer, in dealing with the cavalry, to ignore evidence which concerns only the *celeres*. The commander of the royal bodyguard, the *tribunus celerum*, may have been the prototype of the *magister equitum* of the republican period, if it is right to regard the dictatorship as a temporary restoration of the monarchy. But the whole question of the origin of the dictatorship is much in dispute. It need not concern us here except in so far as it relates to the office of *magister equitum*. Despite his title, the latter is to be regarded rather as the deputy of the dictator than as commander of cavalry. The existence of the office and the title serves merely as an indication of the importance attached to the cavalry in this early period.<sup>5</sup>

On the organization of the early cavalry our sources are

<sup>1</sup> See von Arnim in *Hermes* XXVII (1892), 118 f.; Wendling in *id.* XXVIII (1893), 335 f.; Helbig in *id.* XL (1905), 101 f.; and Helbig, *Die Equites als ber. Hopl.* Helbig dates the change to true cavalry in about 304 B.C.

<sup>2</sup> Pliny, *Nat. Hist.* XXXIII, 35; Festus, *s.v.* p. 505; Scol. Pers. I, 82; Seneca, *Epist.* 76, 2; 87, 9; Varro *ap. Non.* p. 69 (Lindsay); Lamprid. *Vita Commodi*, 2.

<sup>3</sup> Pliny, *loc. cit.*; Servius, *Aen.* IX, 603; Licinianus, p. 3 (Flem.); Hesychius, *s.v.* *φλεξεντής*. Cf. above, p. 2, note 1.

<sup>4</sup> See e.g. Huschke, *Die Verfassung*, 341 f.

<sup>5</sup> On the *celeres* see H. Hill in *C. Ph.* XXXIII (1938), 283 f. On the dictatorship see De Sanctis, *Storia*, I, 420 f.; H. Rudolph, *Stadt und Staat im römischen Italien* (Leipzig, 1935), 7 f.; H. S. Jones in *J.R.S.* XXVI (1936), 268 f., etc.

agreed. They originally numbered 300 and were divided into three contingents, named respectively *Rhamnes*, *Tities* and *Luceres*.<sup>1</sup> Now these names are those of the three ancient tribes into which the people of Rome were divided. They are believed to be of Etruscan origin, so that this organization probably belongs to the time when Rome was under Etruscan domination. We are told that there were also 3,000 infantry in the army of that time, so that it is natural to conclude that each tribe provided 1,000 infantry and 100 cavalry. The ancient writers call these cavalry contingents 'centuries', but they may be incorrect in this, as they are in attributing their formation to Romulus.<sup>2</sup> To Tarquinius Priscus they attribute the next step—the doubling of the numbers of the cavalry. No doubt, in actual fact, the increase was gradual. The new additions were formed into three new detachments, but for a religious reason, as is attested by the legend of Attus Navius which is connected with this step, the old titles were retained, the new detachments being called *Rhamnes &c. posteriores*, the older *prior*es.<sup>3</sup> This doubling of the cavalry is probably connected with an increase in Rome's population, and perhaps with a doubling of the whole people.<sup>4</sup> For the substantial truth of this reconstruction we have definite evidence in the existence in the republican period of the *Sex Suffragia*, the most aristocratic section of the cavalry. There is little doubt that they derive from the six detachments of the regal period.<sup>5</sup> On the question of the number of men in these six detachments our authorities go badly astray. Livy gives it as 1,800 or 1,200 (according to the text accepted), and Cicero gives a figure which may be 1,200, 1,800 or even 2,400.<sup>6</sup> Probably they tried to equate the early numbers with those of the later eighteen centuries. A more likely figure is 600, which would accord well with the early republican army of two legions, the normal cavalry contingent being 300 per legion.

In the later army we find no trace of these large detachments as tactical units. For military purposes the cavalry were arranged in *turmae*, squadrons of thirty men, ten of which were attached to each

<sup>1</sup> Livy, I, 13, 8; Dion. Hal. II, 2; Serv. *Aen.* V, 560; IX, 368; *De Vir. Illust.* 2, 11; Lydus, *De Mag.* I, 9; Plut. *Rom.* 20; Varro, *L.L.* V, 91.

<sup>2</sup> On the centuries see below, p. 7 f.

<sup>3</sup> Livy, I, 36 (*cf.* I, 30); Cicero, *Rep.* II, 20, 36; *De Vir. Illust.* 6, 7; *cf.* Val. Max. I, 4, 1; III, 4, 2; Dion. Hal. III, 71; Festus, *s.v.* *Navia*, p. 168; Florus, I, 1, 5, 2; Licinianus, p. 2 (Flem.); Zonaras, VII, 8.

<sup>4</sup> See P.-W. *s.v.* *Tarquinius*, 2357.

<sup>5</sup> See below, p. 14 f. and Appendix I.

<sup>6</sup> Livy, I, 36; Cicero, *Rep.* II, 20, 36; *cf.* Isid. *Orig.* IX, 3, 51. The fullest examination of this question is made by Belot, I, 1-42 and 95-136. For some sensible criticisms see Gerathewohl, § 2, and Rosenberg, *Zent.* 44 f.

legion. The presence of the number three here has led some ancient writers to conjecture that there was connection between the *turma* and the three ancient tribes, each tribe providing ten men for each *turma*,<sup>1</sup> but this is quite uncertain. Nor does there seem to have been any connection between the *turmae* and the 'centuries'. Since the military organization is almost certainly older than the political, and, at least in later times, the *turma* is military and the century political, it is possible that the organization in *turmae* was the earlier.<sup>2</sup> In any case the turmal arrangement is of sufficient antiquity to be described here. Each squadron was divided into three *decuriae*, or sections of ten, each of which was commanded by a *decurio*. The senior *decurio* also commanded the whole *turma* and so he is sometimes called *praefectus turmae*. In addition there were three junior officers called *optiones*.<sup>3</sup> There was probably also an officer in command of the whole cavalry force. Dionysius speaks of 'leaders of the cavalry', among whom he mentions Tarquinius Priscus and Servius Tullius before they became kings.<sup>4</sup> It is usually said that this position was held by the *tribunus celerum*, but, in view of the doubt expressed above about the *celeres* and of the mystery which surrounds this office, the suggestion cannot be accepted.<sup>5</sup>

On the rank of the cavalry in this period there is general agreement. The religious sanctity which characterised the equestrian centuries is exemplified by the story of Attus Navius. It would be sufficient to exclude any plebeian from their ranks. The earliest were all patrician.<sup>6</sup> Niebuhr even maintained that all the patricians were cavalrymen, but his theory is now discredited.<sup>7</sup> Such a statement as that of Dionysius that Servius Tullius was a plebeian when he commanded the cavalry<sup>8</sup> may be safely dismissed as a later invention. Even when, at the Servian Reform, plebeians were admitted to the cavalry, the

<sup>1</sup> Varro, *L.L.* V, 91; Festus, *s.v.* *Turma*, p. 484; Ovid, *Fasti*, III, 127 f.

<sup>2</sup> It may, on the other hand, represent only a different, and later, type of military organization. Ancient writers regard the *Rhamnes*, etc. as the first military units of cavalry, and they may be right. Cf. Delbrück, *G. d. Kriegskunst*, I, 255 f. Below, p. 14 f.

<sup>3</sup> Polyb. VI, 25, 1; Livy, IV, 38; XXII, 38, 3; Festus, *s.v.* *Turma*, p. 484; *s.v.* *Decuriones*, p. 63; *s.v.* *Optionatus*, p. 220; Ps.-Ascon. p. 202 (Orelli); Val. Max. III, 2, 8; Non. p. 94 (Lindsay); Isid. *Orig.* IX, 3, 51; Vegetius, II, 14. For *praef. turmae* cf. Livy, VIII, 7.

<sup>4</sup> II, 14; III, 39; 41; 53; 64-5; IV, 3, 6. Later, larger bodies of cavalry were commanded by *legati* or *tribuni militum*, and occasionally even by one of the consuls. On the *magister equitum* see above, p. 3.

<sup>5</sup> We do not even know whether there was one *tribunus celerum* or more. See above, p. 3, note 5.

<sup>6</sup> See especially Mommsen, *Staatsr.* III, 254; Beloch, *R. Gesch.* 220. For the opposite view see Holzapfel in *Klio*, I, 228-55; Ihne, *History of the Roman Const.* 173 f.

<sup>7</sup> Niebuhr, *Lectures*, I and VIII; *Hist.* I, 435 f. Convincingly refuted by Peter, *Epochen*, 2 f. Cf. Schwegler, *R. Gesch.* 756 f., etc.

<sup>8</sup> Dion. Hal. IV, 3. Cf. VI, 44; Livy, IV, 3, 16; Clason, *Krit. Erört.* 200 f.



older six detachments seem to have been reserved for patricians. How long this remained the case we do not know.<sup>1</sup>

Tradition ascribes to King Servius Tullius a fundamental reorganization of the whole military and political system. So much has been written about this reform and so many different theories propounded about it that it is difficult to find any point which may be said to have passed uncriticized from ancient tradition into modern histories of Rome. The portion of the reform which applied to the cavalry is no exception though, as they stand somewhat apart from the main Servian system, they are not concerned in many of the points round which controversy still rages. To take only one example, the dates assigned to the reform by modern scholars vary between the reign of Servius (i.e. the traditional date)<sup>2</sup> and the beginning of the fourth century B.C. or even later.<sup>3</sup> Fortunately for the clarity of our discussion, there are three fundamental points about the reform which can be regarded as practically certain. The first is that the new system introduced a fresh basis of classification, that of property, in place of, or in addition to, the old one of birth. What kind of property was taken into account is disputed, but this is a matter which does not concern us here.<sup>4</sup> Secondly, it is generally agreed that the purpose of the introduction of this new criterion was to give to the plebeians a share in the duties and privileges of full citizenship.<sup>5</sup> Thirdly, it is incontestable that the property grouping was applied first of all to the army, and was only later, perhaps considerably later, used as the basis of a political organization, the *Comitia Centuriata*. Of these three points, the first two are made by the ancient authorities, whereas the third emerges from modern study of the ancient system. Our sources lay greater emphasis on the political than on the military aspects of the reform, but this is only natural since, when the early annalists wrote, its effects on the army had been almost completely obscured, whereas the *Comitia Centuriata* was still an effective assembly. Close study, however, even of the words of ancient writers reveals that the reform had at first a military purpose.<sup>6</sup>

<sup>1</sup> Mommsen, *loc. cit.*, thinks it was so until 220 B.C., but his arguments are refuted by Rosenberg, *Zent.* 48 f. See below, p. 8 f.

<sup>2</sup> See e.g. Fraccaro, *La Storia*; H. Last in *J.R.S.* XXXV (1945), 30 f.

<sup>3</sup> Rosenberg, *Zent.* 21; Homo, *Inst. Pol.* 43; Nilsson in *J.R.S.* XIX, 1 (1929), 1 f.; De Sanctis, *Storia*, I, 355; 428, and other works in Bibliography.

<sup>4</sup> See e.g. De Sanctis, *Storia*, II, 199; H. Last, *loc. cit.*

<sup>5</sup> On this point see, however, H. Last, *loc. cit.*

<sup>6</sup> See e.g. Botsford, *R. Ass.* 67-8; Rosenberg, *Zent.* 1 f.; Homo, *Inst. Pol.* Ch. I and II; P.-W. s.v. *Comitia Centuriata*, etc.; W. Schur in *Neue Jahrb.* LI (1923), 193 f.

With these slender premises we must approach the problems connected with the Servian organization of the cavalry. In the completed *Comitia Centuriata* they formed eighteen voting centuries, standing apart from the five infantry *classes*. These centuries fell into two groups of six and twelve respectively, the main difference between them being that the first six bore the names of the earlier cavalry contingents—*Rhamnes*, *Tities*, *Luceres Priores* and *Posteriores*—whereas the other twelve had no separate titles.<sup>1</sup> The obvious explanation of this is that the six named centuries represented the six pre-Servian contingents, the other twelve being added at the time of the reform. Ancient writers adopt this view, saying that Servius reconstituted the old three double 'centuries' into six, with the old names, and added twelve new ones.<sup>2</sup> Apart from the attribution to Servius, we may accept their version. We cannot credit Servius with the establishment of the *Comitia Centuriata*, because the number of cavalry in it, not to speak of the number of infantry, is far too large to belong to so early a date. We must therefore conceive of the increase of the cavalry from six detachments to eighteen centuries as being gradual. As the army increased in size, fresh groups of cavalry were added. This at once raises the question of how the cavalry grew, a question on which modern scholars are divided. Some hold the view that the only military unit for the cavalry was the *turma*, and that the century was a purely political unit.<sup>3</sup> In that case, the growth was by *turmae*. Then, when the cavalry had reached a total of about 1,800 men, the military system was used as the basis of a political assembly, the *Comitia Centuriata*, in which the cavalry formed eighteen centuries for voting purposes, retaining their organization by *turmae* in the army. The alternative is to assume that the century had some military importance, as it certainly had in the infantry,<sup>4</sup> and that the cavalry grew by the creation of new centuries as they were required.<sup>5</sup> It is impossible to decide between these two theories with any degree of confidence. We know only that, in the completed system, there were eighteen voting centuries of cavalry in the assembly and in the army the cavalry served in *turmae*.

<sup>1</sup> On the title *Sex Suffragia* see below, p. 14 f.

<sup>2</sup> Livy, I, 36, 8; 43, 8-9; Cicero, *Rep.* II, 22, 39. Some scholars, arguing from the totals given by Livy and Cicero, hold that Servius did not add to the number of cavalry but merely reorganized them into eighteen groups: e.g. Kübler in P.-W. s.v. *Equites*; C. G. Zumpt, 2-3. But these totals are, as has been pointed out, suspect. Above, p. 4.

<sup>3</sup> Rosenberg, *Zent.* 5 f., following Delbrück and Lammert. Cf. Huschke, *Die Verfassung*, Ch. IV.

<sup>4</sup> Livy, XXII, 38; Val. Max. III, 2, 8; Ps.-Ascon. p. 202 (Orelli). Cf. Fraccaro, *La Storia*.

<sup>5</sup> Mommsen, *Staatsr.* III, 254 f.; Botsford, *R. Ass.* 73; P.-W. s.v. *Centuria*; Gerathewohl, § 18; Fraccaro, *op. cit.*; Cavaignac, *Peut-on*, etc.

Ancient writers are agreed that, in the Servian system, the cavalry were chosen from the richest men,<sup>1</sup> and there can be little doubt that this was so. The attempts made by some modern scholars to combat this view are perverse and unsuccessful.<sup>2</sup> It is supported, not only by all the ancient evidence, but also by the common practice of the peoples of antiquity. The Servian classification was, as we have seen, based on property, and throughout their history the cavalry appear as men of property. It is less easy to decide what was their minimum property qualification. Livy contents himself with calling them *primores civitatis*, though he obviously includes them among the *dites*. Cicero's *censu maximo* is equally vague, but Dionysius is more specific. He says they were chosen 'from those who had the largest census amount and were of high birth', and he several times speaks of them as members of Class I.<sup>3</sup> Taken together, these expressions can only mean that the *equites* had to possess the property qualification of the first class of infantry. They had, that is, no separate *census* when the Servian system was established, and there is, in fact, no direct evidence of the existence of a *census equester* until the time of Cicero.<sup>4</sup>

Naturally, to qualify for cavalry service a man had also to be a freeborn citizen and to be physically fit. The words of Dionysius and Livy seem to imply also that birth was taken into consideration, but it is not quite clear what this means. We have seen already that the admission of plebeians to the full privileges of citizenship was one of the chief features of the Servian reform. It cannot be doubted that they were admitted to the equestrian centuries. No doubt the explanation is that the magistrates in charge of the census had considerable freedom of choice, and they would naturally choose out the most prominent of both patrician and plebeian youths for the cavalry.<sup>5</sup> Birth certainly did play a part in the equestrian centuries, for, as we have mentioned before, the old six centuries remained exclusively patrician for some unknown length of time after the completion of the Servian reform.<sup>6</sup> The plebeians who were admitted,

<sup>1</sup> Livy, I, 43, 8-9; III, 27; Dion. Hal. IV, 18; VI, 44; Cicero, *Rep.* II, 22, 39; Polyb. VI, 20, 9. Cf. Sicilians in Livy, XXIX, 1, 3; Appian, *Pun.* 8; Val. Max. VII, 3, 3.

<sup>2</sup> e.g. Smith, *Röm. Timok.* 96-8; Ihne, *Forsch. Append.*; *Hist. of Rome*, IV, 355; Mispoulet in *Rev. de Phil.* 1884, 177 f.; Niebuhr, *Lect.* I, 89. Cf. Wiesner in *Klio* XVIII (1943), 45 f.

<sup>3</sup> IV, 20; VII, 59; X, 17. Cf. Pliny, *Nat. Hist.* XXXIII, 43.

<sup>4</sup> See below, p. 18 f. On the census amount of Class I see De Sanctis, *Storia*, III, 1, 368 f.; Mattingly in *J.R.S.* XXVII (1937), 99 f.

<sup>5</sup> Cf. the freedom of choice left to the hipparchs in Athens. A. Martin, *Les caval. ath.* 308 f.

<sup>6</sup> Above, p. 5. See especially Mommsen, *Staatsr.* III, 254 f.; Rosenberg, *Zent.* 48 f.; Belot, I, 128 f.; Botsford, *R. Ass.* 75. The arguments against this view presented by Mommsen in *R. Forsch.* I, 134 f. are unconvincing and he rightly withdrew them in *Staatsr. loc. cit.*

therefore, must have entered the newer twelve centuries.<sup>1</sup> But this is not to say that these twelve centuries were exclusively plebeian.<sup>2</sup> It is inconceivable that, in the early Republic, the patricians would allow the plebeians to monopolize so large a proportion of the equestrian vote. We have strong evidence for the presence, and even for the preponderance of patricians in these twelve centuries, in the fact that they consistently supported the patricians against the plebeians.<sup>3</sup> No doubt, as the patriciate dwindled, the proportion of plebeians grew.

Because the Servian system was originally military, there was another criterion applied to its organization—that of age.<sup>4</sup> The age of forty-six marked the transition from *iuniores* to *seniores*. Of the voting centuries of infantry half were composed of *iuniores* and half of *seniores*, an arrangement which obviously gave greater weight to the votes of the older men, since they were naturally fewer in number. From a military point of view, the division was made so that the *iuniores* could provide the active service army, the *seniores* being for home defence. The question at once arises—were the cavalry also divided in this way? Evidence, at least for the early republican period,<sup>5</sup> is completely lacking and we are driven back upon theories. It is generally asserted that the cavalry were all *iuniores*, and there are two arguments of great weight in favour of this view. It has often been pointed out that whereas the *seniores* of the infantry could do valuable service in defending Rome, a similar force of cavalry would be of little use. The second, and more important, argument relates to the political organization of the two sections. In the infantry, as has been said, the centuries of *seniores* equalled those of *iuniores* in number. There is no trace of any similar division of voting power among the cavalry. The only division was into two groups of six and twelve centuries already referred to, which can be explained, as we have seen, in another way and in any case is not parallel to the equal division of the infantry. In favour, however, of the view that the cavalry did contain *seniores*, we can point to their numbers. The normal active service army of Rome consisted of only four legions,<sup>6</sup>

<sup>1</sup> Livy, II, 1, 10–11; IV, 38–42. For references to plebeian cavalrymen see Livy, IV, 13–15; Dion. Hal. VI, 44.

<sup>2</sup> The view of Muhlert, 11, and those he quotes.

<sup>3</sup> Livy, II, 43; Dion. Hal. VI, 34; 44; X, 17.

<sup>4</sup> Cicero, *Leg.* III, 3, 7; 19, 44; Livy, I, 43, etc.

<sup>5</sup> The passages quoted by Huschke, *Die Verfassung*, 350, prove nothing. The cavalry so frequently referred to as *iuvenes* etc. are all men actually on active service, and so would in any case be *iuniores*. Mommsen's tentative suggestion (*Staatsr.* III, 261, n. 3) that 35 may have been the age limit is equally unsupported.

<sup>6</sup> See Botsford, *R. Ass.* 95; Parker, *R. Legions*, 13.

and the normal cavalry contingent per legion was 300. This means that twelve centuries would provide enough cavalry for all ordinary purposes. Were the other six centuries a reserve of *seniores*, and if so, do they correspond to the six purely patrician centuries? To these questions no definite answer can be given. We must repeat, however, that it was open to the magistrate in charge of the census to exercise his own discretion in a large measure, and there may have been no definite regulation about the age of cavalry as there no doubt was for the infantry. At a later time we certainly find men in the centuries of cavalry who were over the age of forty-six, or who, being senators, would not normally go out on active service.<sup>1</sup> Perhaps, therefore, the best explanation of the difficulty is that the consuls or censors in charge of the census adopted, at some time, the practice of retaining in the equestrian centuries men who were not expected to serve in the army, and that this practice was gradually extended until it became the custom to allow senators at least to remain in the centuries.<sup>2</sup> In the time of Polybius it was usual for a cavalryman to serve for ten years, as opposed to the sixteen or twenty years served by the infantry.<sup>3</sup> When this practice was introduced is not known, but it probably does not belong to the Servian system, but to a later period when Rome's population had grown sufficiently to permit of so comparatively short a period of service. At first, no doubt, a man served as long as he was able to bear arms, with forty-six as the maximum age.<sup>4</sup>

As the *equites* had only the same property qualification as the first *classis* of infantry, and appear to have been armed similarly, and as many of them were *filiifamilias* whose qualification for cavalry service was based on their fathers' property and not on their own,<sup>5</sup> the provision and upkeep of a horse was an expense which they could not be expected to bear out of their own pockets. The burdens laid on the families with the highest census amounts were heavier, already, than those borne by the lower *classes*, since in addition to providing their quota of infantry they had to supply the whole of the cavalry. Hence the horse and its upkeep were provided by the state.<sup>6</sup> Possibly,

<sup>1</sup> Below, p. 14 f. One clear case, at least—that of M. Livius Salinator, born about 254 B.C. and still an *eques* in 204 B.C. (Livy, XXIX, 37). Cf. P.-W. s.v. *Livius*, No. 33.

<sup>2</sup> See previous note.

<sup>3</sup> Polyb. VI, 19, 1-2. See below, p. 20 f.

<sup>4</sup> See e.g. Lange, *R. Alt.* I, 475.

<sup>5</sup> Livy, XXIV, 11, 7; XLIII, 14, 8; Festus, s.v. *Duicensus*, p. 58; Dion. Hal. V, 75; IX, 36; Sueton. *Aug.* 40. Cf. below, p. 32.

<sup>6</sup> De Sanctis (*Storia*, II, 206) argues that the state would not provide these sums until the infantry received pay, but the considerations stated above invalidate his argument.

at first, the horse was given *in natura*, but all trace of this stage has been lost,<sup>1</sup> and in later times the provision took the form of two sums of money, the *aes equestre* for the purchase of the horse, and the *aes hordearium* for its upkeep. The horse thus provided was called *equus publicus* and the members of the eighteen centuries thus got the title of *equites equo publico*.

Ancient accounts of the *aes equestre* and the *aes hordearium* are quite clear and consistent for the most part, but they leave many problems unsolved.<sup>2</sup> The most detailed account is that of Livy, who says: *ad equos emendos dena milia aeris ex publico data, et quibus equos alerent viduae attributae, quae bina milia aeris in annos singulos penderent*, 'they received 10,000 *asses* each from the Treasury to purchase their horses, and for the upkeep of their horses widows were assigned to them who had to pay 2,000 *asses* per year'. Apart from an obscure statement by Varro<sup>3</sup> that the *equus publicus* was worth 1,000 *assarii*, this is our only evidence for the amount of the *aera*. Cicero, except that he attributes the arrangement to Tarquinius Priscus, confirms Livy's statement, but adds that orphans also contributed and appears to have thought that both the *aes equestre* and the *aes hordearium* were provided in this way. Gaius contributes a further point—that the cavalry had the right of *pignoriscapio*, or distraint, in connection with the two amounts. The ancient evidence may thus be summed up in this way: the *equus* received a sum of 10,000 *asses* from the state to purchase his horse, and a further annual sum for its maintenance. Either the *aes hordearium* or possibly both *aera* were obtained by a special levy on rich widows and (or) orphans, on the principle, presumably, that those who did not serve should help towards the expenses of war.<sup>4</sup> If the cavalryman failed to get this money, he had the right to distraint upon the property of the widow or orphan concerned.<sup>5</sup>

There are, as has been said, many questions left unanswered in this account, and modern scholars have expended a vast amount of ingenuity in trying to answer them. Unfortunately, their suggestions are so varied that it is impossible to find agreement on any one point,

<sup>1</sup> Gerathewohl, 36, sees traces of this in expressions like *equum publicum assignare, adimere, vendere*.

<sup>2</sup> Livy, I, 43, 9; Cicero, *Rep.* II, 20, 36; Gaius, *Inst.* IV, 27; Varro, *L.L.* VIII, 71; Cato *ap. Prisc.* VII, 38 (= *Frag.* (Jordan) 66); Festus, p. 71; 91; 95; 247; 508.

<sup>3</sup> *loc. cit.* Obscure for two reasons; first because we cannot be certain what *assarius* means, and secondly because we do not know that Varro's *equus publicus* means the same as *aes equestre*. Another difficulty is that the sum mentioned may not be intended as an accurate price for the *equus publicus* but merely an illustration of the grammatical point involved in the passage.

<sup>4</sup> On the taxation of *viduae* and *orbi* see the contradictory accounts of Plutarch in *Camillus*, 2, and *Publicola*, 12, 3, and cf. Botsford, *R. Ass.* 62.

<sup>5</sup> See H. Hill in *A.J.P.* LXVII (1946), 60 f.

and we must be content to state the problems and refer the reader to works where they are more fully discussed.

In the first place we should like to know what the amounts given above would purchase, as this would solve the vexed question of how many horses each man had. But estimates of the value of coinage and the prices of commodities at this early date vary so greatly that it is impossible to come to any decision. Some modern authorities say that 10,000 *asses* was a normal price for a good horse,<sup>1</sup> whereas others maintain that it was much too high for one horse and would purchase two horses,<sup>2</sup> or even, in addition, a slave to act as groom.<sup>3</sup> The position is further complicated by the mention by Festus of a payment called the *aes pararium*,<sup>4</sup> apparently a double *aes equestre* paid to only a section of the *equites*, possibly their officers.<sup>5</sup> There are the same difficulties in the way of evaluating the *aes hordearium*.

The other questions about these two grants may be put more briefly. None of them admits of a certain answer.<sup>6</sup> Was the *eques* compelled to pay back the *aes equestre*, or part of it, on retiring from active service? Was any allowance made regularly, as it was in the case of Cato's grandfather,<sup>7</sup> for the replacement of horses killed in battle? Was the *aes equestre* a single payment, or was it renewed periodically, or was it paid by instalments, as Gerathewohl (§§ 10-11) suggests?

So far we have discussed the cavalry mainly in their military aspect. When the Servian system of *classes* and *centuries* was established as the basis of the new army, its founder or founders had probably no idea that it would be applied to any but military purposes. But it was inevitable that the men who had to fight for Rome should soon demand a share in determining her policy, at least in matters such as peace or war which most nearly concerned them. A new criterion, that of property, had been placed side by side with the old criterion of birth, and it was manifestly unfair that the *Comitia Curiata*, based

<sup>1</sup> e.g. Belot, I, 142 f.; Gerathewohl, 34 f.

<sup>2</sup> e.g. T. Frank, *Econ. Survey*, I, 48; 195; Lange, *R. Alt.* I, 547 f.; P.-W. s.v. *Aes Equestre*.

<sup>3</sup> Helbig, *Sur l'aes pararium*.

<sup>4</sup> s.v. *Paribus equis*, p. 247. Cf. Licinianus, p. 2 (Flem.).

<sup>5</sup> This is the explanation of Gerathewohl (37; 103) quoting Livy, XXX, 17, 13; Helbig (*loc. cit.* and *Die Equites als ber. Hop.* 302 f.; *Contrib.* 190 f.) thinks that *aes pararium* is merely the old name for *aes equestre* and that the *Priores* had two horses, whereas the *Postiores* had only one.

<sup>6</sup> For ingenious discussions of these problems see the works mentioned in the Bibliography, Part I, especially those of C. G. Zumpt and Gerathewohl. It is noteworthy that the *κατάστασις*, which was probably the Athenian equivalent of the *aes equestre*, presents similar problems. Cf. Martin, *Les caval. ath.* 335 f.

<sup>7</sup> Plut. *Cato Mai.* 1.

probably on birth, should remain the only popular assembly. We find, therefore, a new type of assembly appearing, based on the Servian classification and called the *Comitia Centuriata*. This assembly gradually drew to itself most of the powers formerly held by the *Comitia Curiata* and was the chief assembly until it was, in its turn, superseded, to a large extent, by the still more democratic *Comitia Tributa*.

There is no unanimity among scholars as to when the *Comitia Centuriata* began to function. Ancient writers thought of it as formed by Servius Tullius himself, at the same time as his new army system, and even credit it with the power of electing kings.<sup>1</sup> But, in its completed form at any rate, the *Comitia Centuriata* is of considerably later date than this. The two dates most favoured by modern writers are the beginning of the republican period<sup>2</sup> and the date of the institution of the censorship,<sup>3</sup> but there can be no certainty on the point.

The voting in this assembly was by centuries, each century having one vote. Of the total of 193 centuries, eighteen consisted of cavalry.<sup>4</sup> There was, however, one important difference between these eighteen centuries and the other 175 centuries of infantry. The cavalry formed a permanent body with a fixed number of members.<sup>5</sup> Once they had received the *equus publicus* they retained it in peace and war and it was their qualification for membership of the eighteen voting centuries. No one, that is, who had not the public horse could claim membership of the equestrian centuries, and so the number of voters in each of those centuries was constant. With the infantry centuries the case was quite different. Though the number in the centuries in the army was naturally a fixed one, since there must be uniformity in the size of tactical units, in the voting centuries such uniformity was out of the question. Obviously the number of men in each census group must have varied from one classification to the next. Yet every citizen who was entered in a census group was entitled to a vote in that group—i.e. to membership of a voting century—whether he was actually serving in the army or not. Hence the voting centuries of the infantry would normally be larger, sometimes considerably larger, than their military centuries, which was not the case with the cavalry.<sup>6</sup>

<sup>1</sup> Appian, *Pun.* 112; Dion. Hal. V, 12.

<sup>2</sup> Cicero, *Rep.* II, 31, 54. Accepted by Huschke (*Die Verfassung*); Belot (I, 357); Lange (*R. Alt.* I, 457); Homo (*Inst. Pol.* 36); Last (*loc. cit.*), etc.

<sup>3</sup> See e.g. Frank, *Econ. Survey*, I, 19 f.

<sup>4</sup> Possibly they had not previously been arranged in centuries at all. See above, p. 7 f.

<sup>5</sup> Gerathewohl (§ 3) argues that their number was not fixed, but without success.

<sup>6</sup> For the opposite view see Gerathewohl, § 22; De Sanctis, *Storia*, II, 201 f.



This meant a considerable advantage to the latter, since there were more men per century in the infantry and so the cavalry vote was more valuable. In fact, the eighteen centuries of cavalry probably were the only true *centuriae*—i.e. groups of 100—in the *Comitia Centuriata*.<sup>1</sup>

The most important feature of this assembly, and one of the very few things about it on which all ancient and modern writers agree, was the enormous advantage it gave to the wealthier sections of the community. Class I, the richest, had 80 votes and the cavalry, also chosen from the richest men, had another eighteen, so that together they had a majority of the 193 votes. If the cavalry voted in agreement with Class I, as they usually did, having the same interests,<sup>2</sup> the other centuries did not even vote, since voting ceased when a majority was reached.

Another advantage possessed by the cavalry was the right to vote first.<sup>3</sup> It is not quite clear how exactly they did vote, whether all together,<sup>4</sup> or in two sections, the six older centuries first and the other twelve after them.<sup>5</sup> The importance of this first vote was very great, as it was regarded as an omen.<sup>6</sup>

Included in the eighteen centuries of cavalry was a group of centuries with the title of *Sex Suffragia*. It is natural to identify these with the six older centuries which had existed in the period of the kings and which, as has been said, were probably, for a long time, exclusively patrician. The title clearly has reference to the centuries as voting units, but its origin and even the identity of the *Sex Suffragia* are much disputed. The ancient evidence is very slight and confused, and its obscurity has given rise to a crop of theories of which it is possible to give here only the one which seems to fit the evidence best.<sup>7</sup> The *Sex Suffragia*, then, were the six most ancient centuries of the cavalry and, as such, they held the most distinguished position among them. From a military point of view they do not appear to have differed, at least in the beginning, from the other twelve centuries. All alike were liable to be called out for active service, and when a man, through age or infirmity, ceased to be fit for such

<sup>1</sup> See Rosenberg, *Zent.* 16.

<sup>2</sup> See e.g. Livy, IV, 60; XXVI, 36, *al.* They are sometimes counted as part of Class I, e.g. Livy, XLIII, 16; Dion. Hal. IV, 18; 20; VII, 59; X, 17.

<sup>3</sup> Livy, I, 43, 11; V, 18; X, 22, 1.

<sup>4</sup> The generally accepted view now. See P.-W. *s.v.* *Comitia*, etc.

<sup>5</sup> The view of earlier scholars, e.g. C. G. Zumpt (20), Muhlert (12), Belot (I, 296), Mommsen (*Staatsr.* III, 290).

<sup>6</sup> Cicero, *Planc.* 49; *Mur.* 38; *Div.* I, 103; *Ad Quint.* II, 14, 4; Livy, XXVI, 22, 13; Varro *ap. Fest.* p. 290; Ps.-Ascon. *Verr.* p. 139 (Or.).

<sup>7</sup> For a fuller discussion see Appendix I.

service he was expected to surrender his public horse and with it his membership of the eighteen centuries. He was then drafted into one of the senior centuries of Class I of the infantry for the purpose of voting.<sup>1</sup> But, as we have seen, the magistrate in charge of the census had considerable discretion and, as the obligation to retire was a moral rather than a legal one, and the social and political importance of the cavalry was great and was steadily increasing, there was a temptation to cling to membership of the eighteen centuries. For senators, in particular, such retention of the public horse would be valuable, giving them a more important vote as well as higher social prestige; and they, too, would be more likely to receive such a favour from the censors. It was probably, therefore, as a result of the action of the censors rather than of any law that senators began to remain in the equestrian centuries after they had ceased to be liable to active service.<sup>2</sup> When the process began we do not know, but that all senators were members of the eighteen centuries by the time of Scipio Aemilianus is shown by Cicero's reference in the *De Republica* to *equitatus in quo suffragia sunt etiam senatus*, and to the *plebiscitum* by which this privilege was taken away from them.<sup>3</sup> There are a number of well-attested cases of senators retaining the *equus publicus*, of which the most famous are those of C. Claudius Nero and M. Livius Salinator, censors in 204 B.C.<sup>4</sup> A similar case is that of L. Cornelius Scipio Asiaticus, who was deprived of his public horse by Cato in 184 B.C. after having held high office and celebrated a triumph.<sup>5</sup> Further evidence is forthcoming in the mention of *phalerae* and *equi ornamenta* in the possession of senators,<sup>6</sup> and in the fact that senators wore equestrian garb when they went into mourning.<sup>7</sup>

Since, therefore, senators were members of the eighteen centuries of cavalry and the *Sex Suffragia* were the most distinguished group in those centuries, it is possible that the *Sex Suffragia* were largely, or even entirely, composed of senators. It has been suggested that when Cicero, in the passage just quoted, alludes to *suffragia senatus* he means the *Sex Suffragia*, but the identification is not certain. Stronger

<sup>1</sup> See Lange, *R. Alt.* II, 19.

<sup>2</sup> C. G. Zumpt (23) thinks that they had to be physically fit.

<sup>3</sup> *Rep.* IV, 2, 2. Below, p. 105 f.

<sup>4</sup> Livy, XXIX, 37, 8; Val. Max. II, 9, 6; Dio Cass. *Frag.* 56, 74.

<sup>5</sup> Livy, XXXIX, 44, 1; Plut. *Cato Mai.* 18; *De Vir. Illust.* 53. Below, p. 43 f. Cf. M. Caecilius Metellus, deprived of the *equus publicus* while quaestor in 214 B.C. He was perhaps not yet a senator, but he evidently expected to be allowed to retain his *equus publicus* on admission to the Senate. Livy, XXIV, 43, 3; Val. Max. II, 9, 8.

<sup>6</sup> Livy, XXVI, 36, 6; Cf. IX, 46; Val. Max. IX, 3, 3; Pliny, *Nat. Hist.* XXXIII, 18. Cf. the reference to οἱ ἄξιοι τῆς βουλῆς ἱππεῖς in Dion. Hal. X, 10.

<sup>7</sup> Dio Cass. XXXVIII, 14; XL, 46; LVI, 31. Cf. Gellius, III, 18. Cf. Appendix III.

evidence comes from Livy's account of the trial of C. Claudius Pulcher during his censorship in 169 B.C.<sup>1</sup> He tells how the case became a trial of strength between the Senate and the *publicani*. When the voting took place, eight of the *twelve* equestrian centuries, Livy tells us, voted against Claudius. He tells us nothing of the remaining six. If the other six centuries consisted of senators, who would naturally vote for Claudius, the omission is easily understood.<sup>2</sup> Their verdict was a foregone conclusion and did not need mention. The fact that these centuries were six in number points to their being the *Sex Suffragia*. We must conceive of the *Sex Suffragia*, therefore, as going through the same process of development as the other aristocratic institutions of Rome—ceasing, that is, to be exclusively patrician and becoming instead the preserve of the new senatorial aristocracy. If they were exclusively senatorial they would cease, except in very serious emergencies, to serve in the army.<sup>3</sup> This, however, would not seriously affect the efficiency of Rome's cavalry, since the other twelve centuries would provide the requisite 300 men for each of the four regular legions, and extra cavalry was always available from the ranks of those who were qualified for cavalry service but had no public horse.<sup>4</sup> This view of the *Sex Suffragia* has also the advantage of giving a satisfactory explanation of their title. So long as they remained purely patrician, the old patrician titles (*Rhamnes*, etc.) were sufficient, but in the later stage they became voting units containing both patricians and plebeians and the patrician titles could not be applied to them. Hence the title *Sex Suffragia*, which was particularly appropriate to centuries containing the votes of Rome's most distinguished men. It is worth noting, also, that the number of men per century in these six centuries would probably be considerably less than 100, and so their votes would be more valuable even than those of the members of the other twelve equestrian centuries.

At the end of the fifth century B.C., important changes were made in the whole Roman military system, changes which are usually attributed to Camillus. The prolonged siege of Veii was responsible for the introduction of payment for military service, and also, according to tradition, for the beginnings of a new type of cavalry service.

<sup>1</sup> Livy, XLIII, 16, 14. It must be pointed out, however, that this is a much disputed passage and various other interpretations have been placed upon it. In *De Vir. Illust.* 57, we find simply *cum eum duae classes condemnassent*.

<sup>2</sup> This is the explanation adopted by Belot, I, 223 f.

<sup>3</sup> Livy, XXII, 49, 16 f. Cf. above, p. 9 f.

<sup>4</sup> Below, p. 17 f.

For the latter change Livy is our sole direct authority. In V, 7, he says that the receipt of the news of a disaster to the army besieging Veii led those 'who possessed the equestrian census amount but had not had a public horse allotted to them' to approach the Senate and volunteer to serve *equis suis*. Various criticisms have been levelled at this statement, notably that such an action would not help the state much, since cavalry would not be of much value in a siege. To this criticism the answer is that Livy does not imply that it would. His whole point is that the volunteering of the cavalry set an example which was promptly followed by those liable to serve in the infantry, and it was from this point of view that the action of the cavalry volunteers benefited the state. The story itself may be pretty embroidery upon history, since it is unlikely that the use of such supernumerary cavalry began in this way,<sup>1</sup> but the basic fact that such a type of cavalry did exist is quite sound, and the dating, too, is probably correct. There can be no doubt that, at critical periods of her history, Rome found that the *equites equo publico* were insufficient to provide a full complement of cavalry for the number of legions she put in the field.<sup>2</sup> This is particularly true of the Hannibalic War, where, even at the lowest estimate of the number of legions employed,<sup>3</sup> they cannot have been sufficient. It was also probably true of other exceptional periods earlier in her history, and the first of these may well have been, as Livy says, the siege of Veii. Gerathewohl<sup>4</sup> has put forward the view that the number of *equites equo publico* was not limited but could be indefinitely increased by the state when necessary. But this view, in addition to being contrary to all that our ancient authorities have to say about that body, takes no account of the fact that the recruitment of the state cavalry was a matter for the censors, and so took place every five years. It is difficult to believe that the censors were expected to look five years ahead and to provide for emergencies whose coming they could not possibly foresee. We must therefore assume that such extra cavalry as were used consisted of men serving *equis suis*, as described by Livy.

Livy goes on to say that the offer of these men was accepted by the Senate, which passed a decree that *omnibus his voluntariam extraordinariam professis militiam aera procedere*. This can only mean that this

<sup>1</sup> Such service was certainly enforced later (Livy, XXVII, 11, 15).

<sup>2</sup> Livy, VII, 25; IX, 19. Cf. H. Hill in *C.Ph.* XXV (1930), 244 f. The story in Livy, XXIX, 1, is probably apocryphal. Cf. H. H. Scullard, *Scipio Africanus*, 168. Below, p. 22.

<sup>3</sup> See A. Klotz in *Philologus* LXXXVIII (1933), 42 f.

<sup>4</sup> pp. 8 and 14, accepted by Botsford, *R. Ass.* 95. For a different, and even less acceptable, view see Naudet, *De la noblesse*, 34 f.; Mispoulet in *Rev. de Phil.* VIII (1884), 177 f.

new type of supernumerary service was to count as full service<sup>1</sup>—i.e. to be equivalent to serving with the public horse, except for the method of providing a mount. Apparently the supernumerary cavalry received neither the *aes equestre* nor the *aes hordearium*, but in every other respect they were, from a military point of view, comparable to the *equites equo publico*. There was thus no disgrace in this type of service. It even conferred considerable advantages on those who undertook it, since not only had they a more distinguished position in the army, but they were also called upon to serve for a shorter period,<sup>2</sup> a fact which would compensate them for the extra expense they incurred. It is true that the cavalry defeated at Cannae were punished by being compelled to serve for ten years more on horses provided by themselves (*equo privato*),<sup>3</sup> but their position was exceptional and must not be confused with that of the supernumerary cavalry described above.

Livy defines his volunteer cavalrymen as those *quibus census equester erat*, and this has been taken by modern scholars<sup>4</sup> as evidence that a separate equestrian census amount had been instituted, and the cavalry were no longer recruited from the richest and noblest of Class I of the infantry as in the Servian system. It is by no means certain that Livy himself believed this, since he may mean by *census equester* simply the census amount of Class I, which could reasonably be so described. But even if he did believe it, he was almost certainly mistaken. The establishment of an equestrian census amount different from those of the infantry would inevitably mean that those who possessed it would not be called upon to serve in the infantry, even if they were not used as cavalry. It would mean also a change in the procedure of the censors.<sup>5</sup> In his well-known account of the Roman army levy, Polybius has given us, indirectly, valuable evidence about the equestrian census amount.<sup>6</sup> He tells us that a change had been made, some time before his own day, in the order of the levy. Originally (*τὸ παλαιόν*) the cavalry had been selected for the legions after the infantry, but in his own time they were selected before the infantry. It was only possible to select the cavalry last when they were chosen from a limited group of men who were not in any case

<sup>1</sup> Cf. Frontinus, *Strat.* IV, 1, 22.

<sup>2</sup> See below, p. 20.

<sup>3</sup> Livy, XXVII, 11. Cf. Frontinus, *loc. cit.*; Val. Max. II, 9, 7. I have adopted the title 'supernumerary' for the cavalry serving *equis suis* because the title *equites equo privato*, which is usually applied to them, applies only to the disgraced cavalry of Cannae.

<sup>4</sup> e.g. Mommsen, *Staatsr.* III, 258; 499.

<sup>5</sup> See H. Hill in *A.J.P.* LX (1939), 357 f. Below, p. 33.

<sup>6</sup> VI, 20, 8-9.

required for the infantry—i.e. when the only cavalry required were chosen from the existing eighteen centuries of *equites equo publico*. The change made in the order of the levy implies that the cavalry then selected before the infantry was chosen from men who might, if not put into the cavalry, be required for the infantry. As the supernumerary cavalry were the only cavalry we know of apart from the eighteen centuries, this principle must have applied to them, and therefore there cannot have been a separate *census equester* when they began to be used. Thus Polybius corroborates Livy's evidence about the establishment of the supernumerary cavalry but, at the same time, he corrects the impression that such a step presupposes the existence of a *census equester*. Actually, there is no reliable evidence that it did exist until the time of Cicero, though it was probably established by C. Gracchus.<sup>1</sup>

The other great military reform attributed to Camillus, as has been said, was the introduction of pay for the troops. Pay was given first to the infantry, and a little later to the cavalry also.<sup>2</sup> Now so long as the *equites equo publico* were the sole cavalry the question of payment never arose, since the state provided the cost of their horses and their upkeep. The infantry had received similar help from a contribution made by the tribes.<sup>3</sup> Now the burden was taken over by the state and each man received a sum of money from which was deducted the cost of his rations, etc.<sup>4</sup> The cavalry received three times as much as the infantry.<sup>5</sup>

The fact that the introduction of pay came at about the same time as the institution of supernumerary cavalry has led to the conclusion that only the latter, and not the *equites equo publico*, received pay.<sup>6</sup> It seems hardly fair that these privileged cavalrymen should get pay on top of the amounts already paid to them. But we must remember that their personal expenses were high, since they had to have a groom (or grooms) as well as personal servants. It is true that the supernumerary cavalry had similar expenses and had no help in providing a horse, but they were compensated, as has been said, by the shorter period of service as compared with the infantry. The only piece of evidence we have on this point is obscure and modern

<sup>1</sup> See below, p. 110 f.

<sup>2</sup> Livy, IV, 59; V, 4, 7; 12; VIII, 8; Zonaras, VII, 20 (wrongly dated); Diod. Sic. XIV, 16; Festus, s.v. *Privato sumtu*, p. 266; Lydus, *De Mag.* I, 46; Florus, I, 6, 12.

<sup>3</sup> See Lange, *R. Alt.* I, 539 f., etc.

<sup>4</sup> Polyb. VI, 39, 12 f.

<sup>5</sup> Polyb. *loc. cit.*; Livy, V, 12; VII, 41, 8.

<sup>6</sup> See Marquardt, *Hist.E.R.* 16; Belot I, 182 f.; 198; Niemeyer, Ch. III; C. G. Zumpt, 15 f.; Naudet, *De La Noblesse*, 34, etc.

opinion is divided about it, but the following seems the most adequate explanation of it. Livy describes a mutiny of the infantry in 339 (or 342?) B.C., in which they were particularly incensed against the cavalry, who would not support their demands. The result was that the infantry put forward a demand *ut de stipendio equitum (merebant autem triplex ea tempestate) aera demerentur*.<sup>1</sup> Now the equestrian *aera*, as we have seen, were two—*aes equestre* and *aes hordearium*—both paid only to the *equites equo publico*. Of these we know that the former was still paid in the time of Cato the Elder,<sup>2</sup> whereas the *aes hordearium* is not attested for any date later than the mutiny, and by the time of Polybius it had definitely ceased to be paid, for he tells us that the cost of fodder was deducted from the cavalryman's pay.<sup>3</sup> Moreover, it seems to have been a common thing for the censor to withhold the *aes hordearium* from individuals as a punishment.<sup>4</sup> It is probable, therefore, that the infantry in this mutiny were demanding that this penalty be permanently inflicted on all the cavalry. They asked, that is, that in future the cost of feeding the public horse be deducted from the cavalryman's pay and the *aes hordearium* be abolished. The mere mention of the demand is evidence that it was granted, and Polybius, as we have seen, supports the view that it was. If this explanation is correct, it proves that the *equites equo publico* did at first receive the triple pay as well as the *aera*.<sup>5</sup>

It is worth noting, also, that this mutiny falls in the period when, according to the rhetorical fragment quoted above,<sup>6</sup> the Roman *equites* first became real cavalry. The change from full hoplite armour to the lighter equipment of true cavalry would considerably lessen the expenditure of the *equites*, and so the infantry might find a real grievance in the better rewards paid for cavalry service.

Another military reform which may perhaps be put in this same period is the setting of limits to the number of campaigns a man was expected to serve. In later times a cavalryman was forced to serve for ten years only, as opposed to the sixteen years of the infantry. This is definitely attested for the time of Polybius,<sup>7</sup> and the punishment inflicted on the cavalry beaten at Cannae—ten years' extra service—suggests that it was so during the Hannibalic War.<sup>8</sup> Probably

<sup>1</sup> Livy, VII, 41, 8.

<sup>2</sup> Cato *ap.* Priscian, VII, 38 (= *Frag.* (Jordan) 66); Varro, *L.L.* VIII, 71. Below, p. 42 f.

<sup>3</sup> Polyb. VI, 39, 12. Below, p. 24.

<sup>4</sup> Festus, *s.v.* *Inpolitias*, p. 95. Below, p. 36.

<sup>5</sup> See H. Hill in *C.Ph.* XXXVIII (1943), 132 f. For other views see Gerathewohl, 22; P.-W. *s.v.* *Aes Equestre*; Lange, *R. Alt.* II, 22; 37 f.

<sup>6</sup> p. 3.

<sup>7</sup> VI, 19. Cf. Plut. *C. Gracch.* 2, 4.

<sup>8</sup> Livy, XXVII, 11, 14.

in the earliest times, when campaigns lasted only half the year, it was not unreasonable to expect men to serve for the whole period between the ages of seventeen and forty-six.<sup>1</sup> But the longer campaigns which were usual after the siege of Veii made some reduction in the number of campaigns essential, if Rome's army was not to become completely professional. It was probably at this time, therefore, that ten years was fixed as the normal period for cavalry service. Whether this meant ten years of effective campaigning or whether it was sufficient for the cavalryman merely to present himself at the levy for ten successive years, we do not know.<sup>2</sup> In early times this problem would not arise, because Rome, being constantly at war, would need her cavalry practically every year. When, later, the *leges annales* made ten years' cavalry service (the *militia equestris*) a necessary preliminary to the holding of a magistracy, some kind of relaxation of the rule must have been possible. For an intending magistrate perhaps attendance at the levy was enough, and in exceptional cases there seems even to have been a reduction in the number of campaigns required.<sup>3</sup> By the time of Caesar the ten years' *militia* was no longer exacted.<sup>4</sup>

The reforms attributed to Camillus, and particularly the introduction of supernumerary cavalry and of a shorter period of service, were to have important social effects. A man who had served in the cavalry naturally regarded himself as the social superior of one who had been an infantryman. The number of such ex-cavalrymen rapidly increased as a result of these two changes. The ten-year limit of service meant that at least twice as many men were able to attain to membership of the equestrian centuries, since all those who completed their period, with the exception of senators, had to forfeit their public horses which were thus made available for others, whereas, previously, the public horse had been retained until the age of forty-six. Those who had been unable to obtain a public horse were now enabled to serve in the supernumerary cavalry, and they swelled the ranks of those claiming this social superiority. Moreover, all the ex-cavalrymen were wealthy and fresh opportunities of increasing their wealth were presented by every new conquest made by the legions.<sup>5</sup>

<sup>1</sup> Lange (*R. Alt.* I, 481) suggests that the original period for the cavalry was twenty years—from seventeen to thirty-seven—but this is pure conjecture. Cf. Kromayer-Veith, *Heerwesen*, 303.

<sup>2</sup> Mommsen, *Staatsr.* I, 505 f.

<sup>3</sup> Mommsen, *loc. cit.* Cf. Lange, *R. Alt.* I, 708.

<sup>4</sup> *Tab. Heracl.* 91; 101. Though this regulation applies only to municipal magistrates, it is unlikely that more stringent regulations applied to Roman magistrates.

<sup>5</sup> See below, Ch. III.



In the third and second centuries B.C. the *equites equo publico* continued to provide the regular cavalry which was attached to each legion. Though we find occasional references to contingents of 200 or 400, the normal number of cavalry with each legion was 300, divided, of course, into ten *turmae* of thirty men.<sup>1</sup> For the regular army of four legions the *equites equo publico* could thus provide all the cavalry necessary. But, as the size of Rome's army had to be increased in wartime, especially during the Second Punic War, when, we are told, she had as many as twenty-three legions in the field at the same time,<sup>2</sup> she was compelled to draw heavily upon the supernumerary cavalry. In 225 B.C., when threatened with a Gallic invasion following on the exhaustion of the First Punic War, the Romans carried out a census of all men in Italy, citizens and allies alike, who were capable of bearing arms. Ancient writers have preserved the figures obtained by this census—figures which appear to be unimpeachable.<sup>3</sup> They reveal that, at the lowest estimate, there were about 12,000 full Roman citizens who were either actually serving or qualified to serve in the cavalry.<sup>4</sup> This gives overwhelming support to the view, defended above,<sup>5</sup> that the Romans did make use of supernumerary cavalry, in addition to the *equites equo publico*. Furthermore, it is strong evidence that the supernumerary cavalry consisted of members of the first census Class—i.e. that no separate *census equester* existed at this period—since it is hardly possible that so many men can have possessed a higher property qualification than that of the first Class.

In their accounts of the battles during the wars with Carthage and Macedon, ancient writers continue to give the cavalry great prominence, and to attribute to them an important share in the credit for Rome's victories. They are even described, sometimes, as dismounting and fighting on foot.<sup>6</sup> But such statements are probably due to a mere convention in the description of battles, for the cavalry had by this time become far less important as a fighting force than the infantry. This was due to the fact that, before the great wars began (probably at the end of the fourth century B.C.), they had

<sup>1</sup> For references see Marquardt, *Staatsverw.* II, 324 f.; Fröhlich, *Die Bedeutung*, Ch. I.

<sup>2</sup> See above, p. 17.

<sup>3</sup> Polyb. II, 24; Orosius, IV, 13; Pliny, *Nat. Hist.* III, 138; Diod. Sic. XXV, 13; Livy, *Epit.* 20; Eutropius, III, 2. Cf. De Sanctis, *Storia*, III, 1, 327; 371.

<sup>4</sup> See Mommsen, *Röm. Forsch.* II, 382 f.; Strachan-Davidson, *Selections from Polybius, Prolegomena* III, 22 f. Mommsen's reckoning gives a total of 22,100, that of Strachan-Davidson (which is more probably correct), 19,000—but of these some were not full citizens. Cf. Homo, *Inst. Pol.* 153.

<sup>5</sup> p. 17 f.

<sup>6</sup> e.g. Livy, XXII, 49; XXIX, 2; XXXIV, 17; XXXIX, 31; XL, 40; XLII, 61, etc.

ceased to be mounted hoplites and adopted the tactics and the equipment of true cavalry.<sup>1</sup> Previously, as we have seen, they had borne the brunt of battle by the mere fact of reaching the battle-ground first, and had probably been stationed in the centre of the line. Their equipment was that of heavy-armed hoplites. Henceforward they were stationed on the flanks, and their equipment was lighter and more suitable for cavalry fighting. On the latter point our main evidence comes from a passage of Polybius, which is variously interpreted.<sup>2</sup> Polybius says that the equipment of the cavalry of his own times was 'like that of the Greeks' (*παραπλήσιος τῷ τῶν Ἑλλήνων*), whereas formerly (*τὸ παλαιόν*) they were much more lightly equipped. This appears to imply two stages in the history of their equipment, all trace of the earlier hoplite equipment being lost. When they first became true cavalry, the *equites* appear to have abandoned all their heavy armour. They were lightly clad, wearing no breastplate (*ἐν περιζώμασι*). In addition, they gave up the large round shield (*parma*), which was unsuitable for fighting on horseback, in favour of a flimsy oval shield (*scutum*, *θυρεός*) of leather and carried only a very inadequate lance. When, later, they found out the defects of this equipment, they took the Greek cavalry as models.<sup>3</sup> Lance and shield were made much stronger, and the men probably also wore a breastplate, helmet and greaves, and perhaps their horses, too, were protected in the Greek manner. In addition they carried a sword which was longer than that of the infantry.<sup>4</sup> They used neither stirrups nor saddle, having only a saddle-cloth and mounting by leaping upon the horse's back.<sup>5</sup>

As a military arm, therefore, the cavalry gradually declined in importance in this period, and the infantry became and remained the main element in Rome's army. But, in spite of this, the cavalry retained many privileges which mark them as definitely superior in status to the infantry. We have already seen that they received three times as much in pay.<sup>6</sup> Polybius tells us that their pay was six *obols* (one *denarius*) per day, as opposed to a centurion's four and an

<sup>1</sup> See above, pp. 2 f. and 20, and cf. the works of Helbig (in Bibliography) and P. Couissin, *Les armes romaines*, 116-18, etc. The former gives 304 B.C. as the probable date of the change. See below, p. 38, n. 1.

<sup>2</sup> Polyb. VI, 25.

<sup>3</sup> Belot, I, 167, assigns this change to 212 B.C., connecting it with the institution of the *velites* (Livy, XXVI, 4, 4). See below, p. 26.

<sup>4</sup> Polybius mentions only the shield and spear, and the breastplate only by implication. The use of helmet and greaves may be assumed from his Greek parallel. For the sword see Livy, XXXI, 34, 4; Florus, I, 23, 9; Dion. Hal. VIII, 67. The account here adopted is that of Couissin, *op. cit.* 248 f., etc. For other views see the works he quotes, and cf. Belot, I, 162 f.; Kromayer-Veith, *Heerwesen*, 327.

<sup>5</sup> P.-W. VI, 279.

<sup>6</sup> Above, p. 19.

infantryman's two *obols*.<sup>1</sup> From this the quaestor deducted the cost of rations, which, in the case of the *eques*, included both wheat for himself and his servants<sup>2</sup> and barley for his horse—mention of the latter being clear proof that, in the time of Polybius at least, the *aes hordearium* had been merged in the pay.<sup>3</sup> There were also deductions for clothing and equipment but, unless we include horses in the latter category, there is no mention of the cost of the horse being deducted from the pay, a fact which suggests that the *aes equestre* continued to be paid.<sup>4</sup> There are many other indications of this superiority of the cavalry. In the distribution of booty and of donatives after a victory an *eques* usually received three times as much as an infantryman,<sup>5</sup> and he always received at least as big a share as a centurion, who, in his turn, was better treated than the ordinary infantryman. Similarly, the cavalry got larger grants of land in the new colonies which were founded.<sup>6</sup> In deference to their superior birth or wealth, they are usually referred to as *proceres iuventutis*, *principes iuventutis*, *primores iuvenum*, or by some similar title.<sup>7</sup> They are excused from the menial tasks which the infantry have to perform,<sup>8</sup> take precedence over centurions, and are classed with officers.<sup>9</sup> As a punishment, they are made to serve in the infantry.<sup>10</sup> In any mutiny or dispute they usually take the side of officers against men, and sometimes they even fight a battle singlehanded when the infantry refuse to fight.<sup>11</sup> In the camp they are bivouacked next to the officers and infantrymen are told off to look after their horses; at night they inspect the sentries.<sup>12</sup> In the field, they are used for reconnoitring<sup>13</sup> and the carrying of important

<sup>1</sup> VI, 39. Cf. Mattingly in *J.R.S.* XXVII (1937), 102.

<sup>2</sup> From the amount of wheat he received it is obvious that each cavalryman had two servants—yet another proof of his superior status. Cf. Kromayer-Verth, *Heerwesen*, 330.

<sup>3</sup> See above, p. 20.

<sup>4</sup> See above, p. 10 f.

<sup>5</sup> Livy, X, 46, 15; XXXIII, 23, 7-9; 37, 12; XXXIV, 46, 3; 52, 11; XXXVI, 40, 13; XXXVII, 59, 6; XXXIX, 5, 17; 7, 2; XL, 43, 7; 59, 2; XLI, 7, 3; 13, 7; XLIV, 45, 4; XLV, 34, 5; 40, 5; 43, 7; Cf. XXII, 54, 2; XXIX, 15, 7.

<sup>6</sup> e.g. Livy, XXXV, 9, 7-8; 40, 5; XXXVII, 57, 7; XL, 34, 2. For a list see Frank, *Econ. Survey*, I, *passim*. Cf. Rosenberg, *Zent.* 29. It is absurd to see in these larger grants of land a proof that the cavalry were not necessarily rich men, as is done by Mispoulet in *Rev. de Phil.* VIII (1884), 177 f.

<sup>7</sup> e.g. Livy, II, 20, 11; X, 28, 7 (*proceres iuventutis*); II, 12, 15; IX, 14, 16; XLII, 61, 5 (*principes iuventutis*); VII, 8, 1; 10, 1 (*primores iuvenum*). Cf. Livy, III, 61, 7; XXII, 55, 4-6; XXV, 37, 2; Val. Max. III, 2, 9; VI, 5, 2.

<sup>8</sup> Val. Max. II, 9, 7; Frontinus, *Strat.* IV, 1, 22; Dio Cass. *Frag.* 78.

<sup>9</sup> Livy, X, 35, 16; XXII, 14, 15; XXXIV, 13, 4; XXXIX, 5, 17; 31, 16. Cf. XXIV, 18, 15; Val. Max. V, 6, 8; Polyb. VI, 34, 5-6; Cicero, *Phil.* I, 20.

<sup>10</sup> e.g. Livy, XXIV, 18, 9; Val. Max. II, 7, 4; 15; Frontinus, *Strat.* IV, 1, 18; 31.

<sup>11</sup> Livy, II, 43, 7; VII, 41, 8; X, 36, 9; 40, 9.

<sup>12</sup> Polyb. VI, 28; 33; 35, 8 f.; Livy, XXII, 1, 8.

<sup>13</sup> Livy, XXI, 26, 5; 29; 40; 41; XXXV, 4, 5; XXXVIII, 20, 3; Polyb. III, 41, 9; X, 32, 1-2; Dion. Hal. IX, 56; Zonaras, VII, 26, etc.

dispatches,<sup>1</sup> and they form part of the *cohors praetoria*, the bodyguard of the general.<sup>2</sup> In case of defeat, they are selected as hostages,<sup>3</sup> and the ransom for a captured *eques* is higher than that demanded for an infantry soldier.<sup>4</sup> The loss of a few *equites Romani* is specially recorded in casualty lists.<sup>5</sup> They are also selected to perform special duties, such as attending the corpse of a dead leader.<sup>6</sup>

The citizen cavalry supplied, as has been said, the complement of the legions, but from very early times Rome also employed in her army both infantry and cavalry provided by her allies. The conquest of Latium led to the enrolment of contingents of Latins, and as Rome's power spread over Italy, other Italian peoples were called upon to provide troops. These usually co-operated with the citizen troops, and naturally, as the number of conquered allies increased, the proportion of allied to Roman soldiers in the army also increased. Thus, down to the time of the Punic Wars, the cavalry of the Roman army consisted partly of Roman citizens (*equites legionarii*)<sup>7</sup> and partly of Latin and Italian auxiliaries (*equites auxiliarii*). In the time of Polybius the latter were normally three times as numerous as the Romans, and this seems to have been the proportion also at an earlier period.<sup>8</sup> In spite of the prominence given by Roman writers to the achievements of the cavalry, which, as we have already seen, is probably due merely to annalistic convention, there is no reason to believe that either the Romans or their Italian allies were more than moderately successful as cavalry. Their weakness was revealed clearly in the Second Punic War, when Hannibal's Numidians overwhelmed them at Ticinus, Trebia and Cannae.<sup>9</sup> Other similar

<sup>1</sup> Livy, XL, 25, 7, etc.

<sup>2</sup> See Marquardt, *Staatsverw.* III, 2, 307 f. More recently his view of the antiquity of this institution has been questioned, but with insufficient reasons. It is probable that the *cohors praetoria* was a direct descendant of the old royal bodyguard, the *celerēs*. See above, p. 3 f., and cf. the use of cavalry as bodyguards in parleys: Livy, XXV, 16, 15; XXXVIII, 25, 3; Polyb. XV, 6, 3; XXI, 39.

<sup>3</sup> Livy, IX, 5, 5; 12, 9; 14-15; Appian, *Samn. Frag.* 4, 6; Zonaras, VII, 26; Orosius, III, 15, 6; Cf. Livy, XLIII, 21, 3.

<sup>4</sup> Livy, XXII, 58, 4.

<sup>5</sup> Gerathewohl, 27 f.

<sup>6</sup> Dion. Hal. V, 17. Cf. XIII, 3; Livy, XXIX, 21, 2; Sallust, *Jug.* 65, 2.

<sup>7</sup> Livy, XXX, 18; XL, 40, etc.

<sup>8</sup> Polyb. VI, 26, 7; Cf. III, 107, 12; VI, 30, 2. For an earlier period we have the evidence of the extraordinary census of 225 B.C. (see above, p. 22). There were then 3,100 Roman cavalry as opposed to more than 8,000 Italians actually serving. Cf. Livy's figures for 218 B.C.—1,800 Romans and 4,400 Italians (XXI, 17, 2). Figures of the numbers of Italian cavalry attached to separate legions, such as are quoted by Marquardt, *Staatsverw.* II, 382, n. 4, are, of course, no indication of the relative total strength of Romans and allies. Even in these cases, however, and in many others not cited by Marquardt, Italians usually outnumber Romans.

<sup>9</sup> Above, pp. 2 f., 22. See Fröhlich, *Die Bedeutung*, 4 f.

failures are recorded, and Cato, as we shall see, was very concerned about their efficiency.<sup>1</sup>

To remedy this weakness the Romans resorted, in 211 B.C., to the expedient of intermingling light-armed infantry with the cavalry, in the hope of giving it stability.<sup>2</sup> But stability was gained only at the expense of speed, and the Romans do not seem to have used the new method with any great success. However, with their usual genius for profiting by the lessons learnt from their enemies, they solved their problem by employing mercenaries from those nations who had proved their skill in cavalry fighting. Scipio Africanus seems to have been the first to do this, and it was with the help of Spanish and Numidian cavalry that he eventually defeated Hannibal.<sup>3</sup>

There were now three types of cavalry in the Roman army: the Roman legionary cavalry, the Italian auxiliary cavalry and the foreign mercenary cavalry, also called *auxilarii*. As time went on, the Romans relied more and more on the foreigners. At the same time the Roman citizens, particularly those richer men who served in the cavalry, grew less and less inclined to risk their lives in battle. Gradually and inevitably the foreign cavalry superseded both Romans and Italians. The stages in this change are not recorded, and all that we can state with certainty is that, in Caesar's army, the cavalry was composed entirely of foreigners.<sup>4</sup> As for the citizen cavalry, with whom we are here concerned, they seem to have ceased to serve in that capacity considerably before Caesar's time. The precise date of their abolition is a matter of dispute. Their use is clearly attested in all the extant books of Livy—i.e. down to 167 B.C.<sup>5</sup> Polybius, writing probably about 140 B.C., makes the legionary cavalry still consist of citizens,<sup>6</sup> and there were Roman cavalrymen in Spain in 140 B.C., during the war with Viriathus.<sup>7</sup> Beyond this date, the evidence is confused. The language of Sallust's *Jugurtha*, for instance, is so loose that it admits of precisely opposite interpretations. *Auxilia* is used to mean either Italian or foreign troops,<sup>8</sup> so that when we have a reference to *equites* alongside *auxilarii equites*<sup>9</sup> it is purely a matter of opinion whether he means Romans as contrasted with Italians or

<sup>1</sup> Below, p. 42 f. Cf. Livy, XXXIV, 14, 6.

<sup>2</sup> Livy, XXVI, 4; Val. Max. II, 3, 3; Frontinus, *Strat.* IV, 7, 29; Orosius, IV, 18, 11; Vegetius, III, 16. For a discussion of the history and value of this manoeuvre see O. Schambach, *Die Reiterei bei Caesar*, 24 f.

<sup>3</sup> Livy, XXVI, 50, 14; XXVII, 38, 11; XXX, 33–5. Cf. P.-W. s.v. *Equites*, 281; Fröhlich, *op. cit.*

<sup>4</sup> Schambach, *op. cit.*; Fröhlich, *Das Kriegswesen Caesars*, 37–8; *Id. Die Bedeutung*, Ch. I. Cf. Plut. *Anton.* 37.

<sup>5</sup> e.g. Livy, XLV, 43, 7.

<sup>6</sup> VI, 20, 9.

<sup>7</sup> Dio. Cass. *Frag.* 77.

<sup>8</sup> 39, 2; 43, 4; 84, 2; 90, 2; 100, 4.

<sup>9</sup> 46, 7.

Italians as contrasted with foreigners. It is clear that Latin and Italian cavalry was still used,<sup>1</sup> and in one much discussed passage Sallust refers to the demand of Gauda, a claimant to the Numidian throne, that he be supplied with a *turma equitum Romanorum* as a bodyguard.<sup>2</sup> At first sight this would seem to prove that Roman cavalry still served, but this is not necessarily so. The words *equites Romani* may be used to refer to the social class of Equites,<sup>3</sup> from which officers were now drawn. Or perhaps the Jugurthine War was a period of transition,<sup>4</sup> when the young Roman Equites still accompanied the army in *turmae* but were not used in actual fighting, being there to gain experience to fit them to be officers. Of modern scholars the majority attribute the abandonment of Roman cavalry to Marius,<sup>5</sup> while others believe it was due to the Social War.<sup>6</sup> After the Social War the Italians, being now Roman citizens, also ceased to serve as cavalry, except in emergencies,<sup>7</sup> and so we find, as has been said, that the cavalry of Caesar, for instance, was exclusively foreign.

Nevertheless, there are, in Caesar's works, frequent references to *equites Romani* as serving in his army.<sup>8</sup> Moreover, when the legionaries were temporarily mounted, one of them caused amusement by remarking that 'Caesar was doing more than he had promised: he had promised to treat the tenth legion as a personal bodyguard, but he was actually putting them in the cavalry (*ad equum rescribere*)'.<sup>9</sup> Similarly, Cicero describes equestrian service (*equo merere*) as more honourable than the office of centurion.<sup>10</sup> These, and many other similar passages, show that *equites Romani* still served in the army and still held their position of superiority. But they were no longer cavalry but officers.<sup>11</sup>

The senior officers of the Roman army were senators, but there were also many junior officers, many of whom were too young to enter on a career of public office. These junior officers were of two types, *tribuni militum* and *praefecti*, the former being officers of the

<sup>1</sup> 95, 1.<sup>2</sup> 65, 2.

<sup>3</sup> Cf. 65, 4; *equites Romanos, milites et negotiatores*. As for the word *turma*, Sallust uses it indiscriminately for contingents of Italians and foreigners, and even for those of Jugurtha's army! e.g. 38, 3; 6; 49, 2; 91, 1; 99, 1; 101, 4. In 50, 5, *Romanorum turma* is probably simply 'a cavalry detachment belonging to the Roman army'.

<sup>4</sup> See Professor Summers' Introduction to his edition, p. xxiii f.

<sup>5</sup> e.g. Marquardt, *Staatsverw.* II, 426; Schambach, *op. cit.* 5; P.-W. VI, 281; Gelzer, *Die Nobilität*, 8.

<sup>6</sup> e.g. Madvig, *Kl. Phil. Schrift.* 502. *Id. Verfass. und Verwalt.* II, 495; Fröhlich, *Das Kriegswesen Caesars*, 38.

<sup>7</sup> Plut. *Sulla*, 29; Appian, *Civ.* II, 49; *Bel. Alex.* 56. Cf. Belot, II, 84 f.

<sup>8</sup> *Bel. Gal.* III, 7-10; VII, 60, 1; 65, 5; *Bel. Civ.* I, 17, 2; 23, 1-2; 51, 3; 77, 2, etc.

<sup>9</sup> *Bel. Gal.* I, 42, 6.

<sup>10</sup> *Phil.* I, 20.

<sup>11</sup> For the opposite view see Soltau in *Z. f. öst. Gymn.* V, 385 f.; Belot, II, 84 f.

Roman troops, while the latter commanded detachments of allies. Originally all these men were appointed by the general, and the *praefecti* continued to be so appointed until the end of the republican period. This was not the case, however, with the *tribuni militum*. In 362 B.C., perhaps as a consolation for the abolition of the *tribuni militum consulari potestate*, the people began to elect six of the *tribuni militum*,<sup>1</sup> that is, the normal complement of one legion. In 311 B.C., by the *Lex Atilia-Marcia*, this number was increased to sixteen,<sup>2</sup> and at some date before 207 B.C. the people began to elect twenty-four *tribuni militum*, the full complement of the four regular consular legions.<sup>3</sup> The right of election was suspended for a year in 171 B.C.,<sup>4</sup> but in 169 B.C., apparently as a kind of compensation, the people were allowed to elect not only the usual twenty-four but also a further twenty-four who were needed for four extra legions.<sup>5</sup> Apart from this temporary break, the practice of election lasted throughout the Republic and even for some time in the imperial period.<sup>6</sup> Such elected *tribuni* were called *tribuni militum a populo* or *comitiati*. The tribunes needed for any extra legions were appointed by the generals and were called by the mysterious title of *rufuli*.<sup>7</sup> The *tribuni militum a populo* were officially magistrates of the Roman people, and the holding of the office became a common, though not essential, preliminary to a magisterial career.<sup>8</sup> Apart from this, there seems to have been no real difference between the two types of military tribune.

These posts were naturally much sought after, and it is not until the end of the Republic, when the Romans were in any case becoming reluctant to serve in the army, that we find any dearth of candidates.<sup>9</sup> While candidates were numerous, it was possible to insist on some previous military experience. Polybius tells us that, of the twenty-four elected tribunes, ten must have had ten years' previous military service and the rest five years.<sup>10</sup> No doubt similar conditions, though perhaps not quite so rigid, were laid down for the *rufuli* and the *praefecti*, since, though these officers were supervised by the general, we find them given important duties to perform. Some-

<sup>1</sup> Livy, VII, 5, 9.

<sup>2</sup> Livy, IX, 30, 3. Cf. E. Meyer, *Kl. Schr.* II, 247.

<sup>3</sup> The practice was already established in 207 B.C. (Livy, XXVII, 36, 14; cf. Polyb. VI, 19).

<sup>4</sup> Livy, XLII, 31, 5. Cf. Malcovati, *Or. Rom. Frag.* I, pp. 61 and 189; Lange, *R. Alt.* II, 283 f.

<sup>5</sup> Livy, XLIII, 12.

<sup>6</sup> Madvig, *Kl. Phil. Schr.* 554; Mommsen, *Staatsr.* II, 578.

<sup>7</sup> Polyb. VI, 12, 6; Festus, *s.v. Rufuli*, pp. 316-17; Livy, VII, 5, 9; Ps.-Ascon. p. 142 (Orelli). For the title see P.-W. *s.v. Trib. Mil.* VI, 2, 2440 f.; Hankel, *Ernennung*, 8.

<sup>8</sup> Sallust, *Jug.* 63; Frontinus, *Strat.* II, 4, 4; cf. Mommsen, *Staatsr.* I, 511, n. 2.

<sup>9</sup> Livy, *Epit.* 48; Polyb. XXXV, 4.

<sup>10</sup> Polyb. VI, 19.

times they are in sole command of quite large bodies of troops. The time came, however, when it was no longer possible to get men of experience to become officers, and towards the end of the Republic, for example, in the army of Caesar, we find military tribunes who were quite inexperienced, and completely unsuited to perform the duties previously imposed on such officers.<sup>1</sup> This was the period when the strength of the army lay in its centurions.

The history of the office of *praefectus* is similar to that of *tribunus militum*. The *praefecti* were appointed, as has been said, by the generals.<sup>2</sup> They acted originally as officers of the contingents supplied by the Latins and Italians to the Roman army, and they often performed important and responsible tasks. Their full title, in the earlier republican period, was *praefecti socium*. Among those of whom we have mention there are a few who were Latins or Italians,<sup>3</sup> and it is not clear what difference of rank, if any, there was between Roman and non-Roman *praefecti*. There can be little doubt, however, that those appointed by the generals were Romans, since the non-Romans appear to have been appointed by the allied states who supplied the troops.<sup>4</sup>

The *praefecti socium* are frequently mentioned alongside the *tribuni militum*,<sup>5</sup> and both types of officer are found in the *consilium* or advisory war council of the general.<sup>6</sup> This proves that their rank was approximately equal.

When, after the Social War, the Latin and Italian allies ceased to serve separately from the Romans, there was no longer any need for the *praefecti socium*. We still find *praefecti* in the Roman army, but their functions are ill-defined. Some were *praefecti equitum*?—commanders of the detachments of foreign cavalry now in use—but the great majority are described simply as *praefecti*, and were attached to generals or provincial governors, without any specific duties, and

<sup>1</sup> Caesar, *Bel. Gal.* I, 39; *Bel. Af.* 54, 1; Cicero, *Ad Fam.* VII, 8; *Ad Quint.* II, 13, 3; *Ad Att.* VI, 3, 5, etc. Cf. Fröhlich, *Das Kriegswesen Caesars*, 19; Kromayer-Veith, *Heerwesen*, 399 f.

<sup>2</sup> Polyb. VI, 26, 5; cf. Mommsen, *Staatsr.* III, 675.

<sup>3</sup> e.g. Livy, XXII, 24, 11; 42, 4; 43, 7; XXIII, 1, 9; 19; XXV, 1, 3; 14. Cf. Val. Max. III, 2, 20; Sallust, *Jug.* 67; 69; Plut. *Aem. Paul.* 20; Appian, *Hisp.* 47. Cf. also the Gallic chiefs who held this rank in Caesar's army—*Bel. Gal.* I, 18, 10; VIII, 12, 4. For Roman *praefecti* see Livy, XXIII, 7, 3; XXIV, 40, 8; XXVII, 26, 12; 41, 7; XXXI, 2, 6; XXXIII, 36, 5; XXXIV, 47, 2; XXXV, 5, 8 f.; XL, 31, 3; XLII, 58. Cf. Caesar, *Bel. Gal.* I, 39, 2; Sallust, *Cat.* 59, 6; Cicero, *Verr.* II, 2, 29; 5, 83.

<sup>4</sup> Polyb. VI, 21, 5.

<sup>5</sup> Livy, VIII, 36, 6; X, 35, 5; XXI, 59, 9; XXVI, 15, 6; *al.* Cf. Caesar, *Bel. Gal.* I, 39, 2; III, 7, 3; *Bel. Civ.* I, 21, 4; Cicero, *Ad Fam.* III, 8, 7; V, 20, 7; Polyb. XI, 27, 2.

<sup>6</sup> Livy, XXVI, 15, 6; XLII, 58, 4; Cicero, *Verr.* II, 1, 73; Appian, *Hisp.* 79; *Hann.* 19. Cf. Cichorius, *Röm. Stud.* 130 f.

<sup>7</sup> e.g. Vell. Pat. II, 24, 1; Cicero, *Ad Fam.* XII, 14, 8; *Off.* II, 45. Cf. Fröhlich, *Das Kriegswesen Caesars*, 41.



## CHAPTER II

# THE EIGHTEEN CENTURIES OF *EQUITES EQUO PUBLICO*

ROME's army, her political system, and her system of taxation were all based on the Servian organization of tribes, centuries and classes. In order to keep this organization up to date, there had to be a periodic census of the people, at which they were registered and classified according to their property and their ages. This task, at first performed by the consuls, was handed over in 443 B.C.<sup>1</sup> to two new magistrates, the censors. At first quite minor officials performing an almost purely mechanical function, the censors rapidly gained in importance, largely because they began to exercise a moral censorship by punishing, in various ways, those of whose mode of life they disapproved. Further duties, including the supervision of public works and the allotting of state contracts, were handed over to them and eventually they were entrusted with the task of filling up the Senate (*lectio senatus*) and so gained control of the membership of that body. Their main duty remained, however, the quinquennial registration and classification of the people (*census populi*). The census took place in the Campus Martius. Only the heads of families took part, women being excluded and sons who were still *in patria potestate* (*filiifamilias*) being registered by their fathers. Each man was called out according to his tribe and gave the censors particulars of his household and property. On the basis of this list the censors then classified the adult male citizens into classes and centuries. *Filiifamilias* were allotted to the same census group as their fathers.<sup>2</sup> This general census ended the concern of the censors with the infantry. The centuries they constituted were, as we have seen,<sup>3</sup> quite different from the infantry centuries of the army. It was the duty of the consul, or his deputy, not of the censors, to select men for service in the infantry from the lists made by the censors, and this was done at the annual levy.<sup>4</sup>

The case of the cavalry was different. Here there was no difference between the military and the voting centuries. By allotting the *equus*

<sup>1</sup> 435 B.C., according to Mommsen, *Staatsr.* II, 335.

<sup>2</sup> Livy, XLIII, 14; Festus, s.v. *Duicensus*, p. 58. Cf. Sueton. *Aug.* 40. Above, p. 10.

<sup>3</sup> Above, p. 13.

<sup>4</sup> Polyb. VI, 20.

*publicus*, the censors gave admission to the eighteen centuries of the cavalry. All that the officers in charge of the levy had to do was to allocate the necessary contingent of cavalry to each legion.<sup>1</sup> The granting of the public horse was not done at the general census but at a separate ceremony known, usually, as the *census equestrum*.<sup>2</sup>

Mommsen has argued that, since there was this separate *census equestrum*, the members of the equestrian centuries had no part in the general census, but his evidence is quite inadequate.<sup>3</sup> As the *census equestrum* did not, so far as we know, contain any declaration of property, it is better to assume that the cavalry had also to attend the general census.<sup>4</sup> So long as the property qualification for cavalry service did not differ from that of Class I of the infantry, there was no need for a separate list of men thus qualified. What happened after the establishment of a separate *census equestrum* we do not know. There may then have been a separate list or a special mark may have been used, as at Athens, to indicate, on the general census list, those qualified for cavalry service.<sup>5</sup>

The *census equestrum* was carried out not, like the general census, in the Campus Martius, but in the forum<sup>6</sup> and it naturally followed the general census which was an essential preliminary to it.<sup>7</sup> The holders of the public horse, including, in this case, those who were still *filiifamilias* and so had not appeared in the general census, came before the censors in turn, leading their horses by the bridle.<sup>8</sup> The

<sup>1</sup> Cf. Cicero, *Phil.* VI, 13, with *id. ib.* VII, 16. See above, p. 13.

<sup>2</sup> Livy, XXIX, 37, 8; Cicero, *Clu.* 134; Gellius, IV, 20, 11; Nonius, *s.v.* *Strigosus*, p. 247 (Lindsay). The corresponding verbs are: *recensere* (Livy, XXXVIII, 28, 2; XL, 46, 8; XLIII, 16, 1; Sueton. *Vesp.* 9) or *recognoscere* (Livy, XXXIX, 44, 1; Val. Max. II, 9, 6; IV, 1, 10; Sueton. *Aug.* 37; 38). The nouns *recensio* and *recensus* do not seem to occur in this connection and *recognitio* occurs only once. (Sueton. *Claud.* 16; cf. Scol. *ad Pers.* III, 29. On the text of Livy, XLIV, 16, 8, see H. Hill in C.R. XLV (1931), 128). The Greek equivalents are *δοκιμασία* (Diod. Sic. XX, 36), *ἐξέτασις* (Plut. *Aem. Paul.* 38; cf. *id.* *Pomp.* 22, 5; Zonaras, X, 2; Dio Cass. LV, 31), and *ἐπισκοπή* (Plut. *Crass.* 13). Lange (R. *Alt.* I, 802 f.) makes a distinction between *census equestrum*, which he regards as a term covering both examinations of the cavalry, and *recognitio equestrum*, the special equestrian ceremony; but the passages he quotes to support his view (i.e. Livy, XXXIX, 44; XLIII, 15-16; and XLIV, 16) are only rather confused accounts of the general census and the *census equestrum* combined. The term *probatio equestrum* belongs to the imperial period.

<sup>3</sup> *Staatsr.* II, 371, n. 4. The passages of Livy and Polybius which he quotes prove nothing of the kind. In the formula *omnes Quirites pedites armatos*, quoted by Varro (*L.L.* VI, 86) *pedites* is best explained, with Lange (R. *Alt.* I, 802) as an adjective meaning 'on foot'. For mention of the cavalry in the census before the institution of the censorship see Dion. Hal. V, 75; VI, 44.

<sup>4</sup> In Athens, too, the cavalry was subjected to a double *δοκιμασία* (Martin, *Les cav. ath.* 326 f.).

<sup>5</sup> Martin, *op. cit.* 358. Cf. above, p. 18 f.

<sup>6</sup> Plut. *Pomp.* 22; Dio Cass. LV, 31; Zonaras, X, 2.

<sup>7</sup> See e.g. Lange, R. *Alt.* I, 805; Mommsen, *Staatsr.* II, 371, n. 4. For a different view see Fraccaro, *Ricerche*, 89. In one case Livy (XXIX, 37) puts the *census equestrum* after the completion of the *lustrum*, but this, though accepted by Belot (I, 197), is incorrect. The *census equestrum* was an integral part of the whole census procedure which was rounded off by the *lustrum*. (Livy, XL, 46, is not evidence on this point.)

<sup>8</sup> Plut. *Pomp.* 22.

censors used the list made by the previous censors, calling out each man according to his tribe.<sup>1</sup> There were three basic qualifications which every holder of the public horse must have. He, or in the case of a *filiusfamilias* his father, must have the requisite property rating, he must be physically fit and morally above reproach. On the first of these points the censors had their information already from the general census. In the *census equestrum*, therefore, they were concerned with the other two. Each man was questioned about the number and nature of the campaigns he had served in,<sup>2</sup> and the physical condition of both man and horse was examined. The censors also inquired into any evidence they might have about the moral character of each *eques*. If a man passed all these tests satisfactorily and had not yet completed his period of service,<sup>3</sup> he was readmitted to the equestrian centuries with the formula *traduc equum*.<sup>4</sup> If his period of service was completed or he had reached the age limit, when such a limit existed, he was struck off the list and had to give up his *equus publicus*, unless the censors gave him special permission to remain in the centuries.<sup>5</sup> One comparatively small point here causes some difficulty. It is the problem of what happened to those who completed their period of service in the interval between two censorships. Mommsen<sup>6</sup> believed that other magistrates had the right to alter the lists made by the censors, but his evidence is unconvincing and, though the theory may be true of the infantry, it is contrary to the whole spirit of the *census equestrum*. It is most unlikely that any but the censors could grant or take away the *equus publicus*. Probably, in cases of this kind, the *eques* retained his public horse, without actually serving, until the next census, when he resigned it.<sup>7</sup> Such an arrangement would cause some gaps in the ranks of the cavalry, but in the period before 400 B.C. there would be a surplus of men with the

<sup>1</sup> Livy, XXIX, 37, 8; Val. Max. II, 9, 6; IV, 1, 10.

<sup>2</sup> Plut. *loc. cit.*

<sup>3</sup> Above, p. 20 f.

<sup>4</sup> Cicero, *Clu.* 134; Val. Max. IV, 1, 10; Quintil. V, 11, 13. Cf. Ovid, *Trist.* II, 89; 541, and the pun in Cicero, *De Orat.* II, 258.

<sup>5</sup> Plutarch and Zonaras, *loc. cit.*; Varro *ap.* Non. p. 122 (Lindsay). Cf. Cichorius, *Röm. Stud.* 219 f. On this point the evidence is slight and late, referring only to the period after senators were compelled to resign the public horse (below, p. 105 f.). We must assume, however, that an *eques* did retire after completing his service, and the assumption gains some negative support from the fact that retention of the *equus publicus* by senators was clearly an exceptional case. See above, pp. 9 f., 14 f.

<sup>6</sup> *Staatsr.* II, 413 f.

<sup>7</sup> See, e.g., the case of M. Caecilius Metellus (Livy, XXIV, 43), who was already quaestor when he was deprived of his *equus publicus*. C. Gracchus may have been in a similar position in the censorship of 125-4 B.C. He cannot have completed his service at the time of the previous censorship in 131 B.C. (Plut. *C. Grac.* 2; cf. P.-W. IIa, 1382. Below, p. 105).

public horse and after that date the military officials could draw upon the supernumerary cavalry.<sup>1</sup>

The censors had the power to punish, in various ways, those *equites* with whom they were not satisfied, the severity of the punishment varying with the fault. The most severe penalty was the taking away of the *equus publicus*. For this the technical terms are *equum adimere*<sup>2</sup> or *equum vendere iubere*,<sup>3</sup> and the censors' formula was probably *vende equum*. What happened after the horse was sold, or whether, indeed, there was any actual sale, we do not know. Some scholars have conjectured that the disgraced *eques* had to refund either the sum obtained by the sale or the full *aes equestre* to the treasury.<sup>4</sup> There are a number of ancient references to this punishment, which give us some idea of the kind of offence for which it was inflicted. These included cowardice in the field,<sup>5</sup> insubordination,<sup>6</sup> failure to report for service,<sup>7</sup> abuse of powers as a magistrate,<sup>8</sup> disrespect for authority,<sup>9</sup> condemnation in a criminal trial,<sup>10</sup> perjury or false oath,<sup>11</sup> judicial corruption,<sup>12</sup> appearance as an actor or gladiator,<sup>13</sup> fraud or other dishonesty in private affairs,<sup>14</sup> neglect of religion,<sup>15</sup> and extravagance.<sup>16</sup> No doubt there were other offences which were dealt with in the same way.<sup>17</sup>

In most cases the withdrawal of the public horse meant complete *ignominia*—i.e. the *eques* thus punished was also degraded to an inferior status of citizenship (*tribu motus et aerarius factus*).<sup>18</sup> There seem, however, to have been cases where the censors were satisfied with the

<sup>1</sup> Above, pp. 9 f., 17 f.

<sup>2</sup> e.g. Livy, XXIV, 18; 43; XXVII, 11; XXXIV, 44, *al.*

<sup>3</sup> e.g. Livy, XXIX, 37; Val. Max. II, 9, 6; Livy, XLV, 15, 8.

<sup>4</sup> e.g. C. G. Zumpt, 9; Madvig, *Verf. und Verw.* I, 163; Niebuhr, *Hist.* I, 441. Cf. Mommsen, *Staatsr.* III, 256, n. 3. For a contrary opinion see Lange, *R. Alt.* I, 548 f.; 810.

<sup>5</sup> Livy, XXIV, 18; 43; XXVII, 11, 13; Val. Max. II, 9, 8.

<sup>6</sup> Val. Max. II, 9, 7; Frontinus, *Strat.* IV, 1, 22.

<sup>7</sup> Livy, XXVII, 11. (A case of refusal to grant the *equus publicus*, but clearly parallel to its removal.)

<sup>8</sup> Livy, XLIV, 16, 8. This was probably the charge made against C. Gracchus (Plut. *C. Grac.* 2; Cicero, *Orat.* 233. Cf. below, p. 105).

<sup>9</sup> Gellius, IV, 20, 11; Plut. *Apophth. Scip. Min.* 11.

<sup>10</sup> Livy, XXIX, 37, 9; Val. Max. II, 9, 6.

<sup>11</sup> Livy, XXIX, 37, 9; Cicero, *Clu.* 134; Val. Max. IV, 1, 10; Quintil. V, 11, 13; Plut. *Apophth. Scip. Min.* 12. (All dealing with the case of C. Licinius Sacerdos.) Cf. the ambassadors from Hannibal's prisoners in Livy, XXII, 61; XXIV, 18; Val. Max. II, 9, 8; Cicero, *Off.* I, 40; III, 113; Gellius, VI (VII), 18; Zonaras, IX, 2.

<sup>12</sup> Cicero, *Clu.* 119 f.

<sup>13</sup> Case of Laberius in Sueton. *Div. Iul.* 39, etc. Below, p. 195.

<sup>14</sup> Livy, XXIX, 37, 10; Val. Max. II, 9, 6; Sueton. *loc. cit.*

<sup>15</sup> Festus, s.v. *Stata Sacrificia*, p. 466.

<sup>16</sup> Cicero, *De Orat.* II, 287.

<sup>17</sup> See a full discussion of the censors' *nota* in E. Schmähling, *Die Sittenaufsicht der Censoren*.

<sup>18</sup> Livy, XXIV, 18; 43; XXVII, 11; XXIX, 37; XLII, 10; XLIV, 16; XLV, 15; Val. Max. II, 9, 6-8; Gellius, IV, 20, 11.

mere removal of the public horse and did not inflict any further degradation.<sup>1</sup> For lesser offences fines were imposed,<sup>2</sup> and in the case of a badly kept horse the *aes hordearium* could be taken away.<sup>3</sup> In particularly bad cases, where it was felt that the penalties which the censors could inflict were not severe enough, it was possible for the Senate, by a special decree, to impose further punishment by demanding, for example, from the men involved a further period of service, either in the infantry or on horses provided by themselves.<sup>4</sup>

When the censors had thus revised the list of *equites* made by the previous censors, they proceeded to fill up the places left vacant in the centuries by death, retirement or expulsion. This they did by formally allotting an *equus publicus* to men they selected from among those possessing the necessary qualifications.<sup>5</sup> The ceremony was then rounded off by the reading out (*recitatio*) of the completed list.<sup>6</sup> The last stage of the whole census procedure was the solemn purification (*lustrum*) of the people, the successful completion of which was essential for the validity of the census. For this purpose the whole people paraded in the Campus Martius, grouped in their centuries, both infantry and cavalry, and one of the censors, chosen by lot, performed the sacrifice of the *suovetaurilia*.<sup>7</sup>

In the foregoing description of the *census equitum* it has been assumed that this ceremony was closely connected with the general census and that therefore it formed part of the censors' functions from the very beginning. It is well, however, to point out that some scholars do not accept this view.<sup>8</sup> They believe that the censors did not control membership of the eighteen centuries until the censorship of 312-311 B.C. The evidence for this belief is as follows. Livy, in a somewhat vague and rhetorical passage,<sup>9</sup> appears to include the *census equitum* along with the *lectio senatus* in the censors' powers of

<sup>1</sup> e.g. in case of bad physical condition (Gellius, VI (VII), 22). In Livy, XLIV, 16, 8, the apparent distinction made between Rutilius and the others is probably due to careless writing. See especially the case of L. Scipio Asiaticus, who lost his *equus publicus* but remained a senator (Livy, XXXIX, 44; 56; below, p. 43 f.). Cf. Sueton. *Aug.* 38, 3.

<sup>2</sup> Festus, s.v. *Censionem facere*, p. 47.

<sup>3</sup> Gellius, IV, 12; Festus, s.v. *Inpolitias*, p. 95. See above, p. 20. In the case quoted by Gellius, IV, 20, 11, the severer punishment was for lack of respect to the censors, not for the condition of the horse.

<sup>4</sup> Livy, XXIV, 18, 9; Frontinus, *Strat.* IV, 1, 22; Val. Max. II, 7, 15. In XXVII, 11, 13 f., Livy, probably wrongly, attributes this power to the censors. Cf. Belot, I, 199; Greenidge, *R. Public Life*, 225.

<sup>5</sup> The technical term was *equum publicum assignare* (Livy, V, 7; XXXIX, 19, 4; Cicero, *Rep.* II, 36).

<sup>6</sup> Sueton. *Calig.* 16. Cf. Cicero, *Dom.* 84; Livy, XXIX, 37.

<sup>7</sup> Livy, I, 44; Dion. Hal. IV, 22; Ps.-Ascon. *In Div.* p. 103 (Orelli).

<sup>8</sup> e.g. Belot, I, 133 f.

<sup>9</sup> IV, 8.

moral supervision (*regimen morum*), which, he says, they did not possess at first. The date at which it is believed that the censors first gained control of the *lectio senatus* (and, therefore, according to this theory, of the *census equitum* also)—i.e. 312–311 B.C.<sup>1</sup>—coincides with that of the first mention made by ancient authorities of the *census equitum*.<sup>2</sup>

In reply to the latter argument, it should be pointed out that the absence of any mention of the *census equitum* before 312 B.C. is not surprising when we consider how rarely it is mentioned at all in accounts of the censorship. It naturally does not appear in the *Fasti*, but even of the sixty censorships for which we have literary evidence only twenty contain any reference to it, and very few of these are of early date. Moreover, the literary evidence about the censorship as a whole before 312 B.C. is exceedingly scanty. No censorship earlier than that is described fully enough to give us any adequate picture of the full powers of the censors. It is therefore probably a mere coincidence that 312 B.C. is the first date for which the *census equitum* is recorded.<sup>3</sup> As for the argument from the *lectio senatus*, that is quite unsound. There is no analogy. Control over membership of the Senate was given to the censors by a law, the *Lex Ovinia*, which, so far as we know, was concerned only with the Senate.<sup>4</sup> It is far more reasonable to compare the equestrian centuries with those of the infantry and so to conclude that the censors controlled them from the beginning.

The earliest mention of the *census equitum* relates, as has been said, to the censorship of Appius Claudius and C. Plautius in 312 B.C.<sup>5</sup> All that we are told is that nobody was expelled from the equestrian centuries, a fact which hardly suggests that revolutionary change in the basis of assessment attributed, until recently, to this pair of censors.<sup>6</sup> Whatever may have been the nature of the changes then made, they clearly had no very important effect upon the composition of the equestrian centuries.<sup>7</sup> The next censors, Q. Fabius Rullianus and P. Decius Mus (304 B.C.), who apparently did their best to minimize the effects of what their predecessors had done, are credited with a measure which was perhaps designed to emphasize the aristocratic

<sup>1</sup> Willems, *Le Sénat*, I, 153 f.

<sup>2</sup> Diod. Sic. XX, 36.

<sup>3</sup> The censorships for which we have mention of the *census equitum* are those of the following years: 312, 304, 276, 252, 214, 209, 204, 194, 189, 184, 179, 174, 169, 164, 159, 142, 125, 102, 70 and 50 B.C. For a complete list of censorships, with citation of evidence, see C. De Boor, *Fasti Censorii*; R. V. Cram in *Harvard Studies*, LI (1940), 71 f.

<sup>4</sup> Willems, *Le Sénat*, I, 30 f.

<sup>5</sup> Diod. Sic. XX, 36.

<sup>6</sup> See H. Last in *J.R.S.* XXXV (1945), 45 f.

<sup>7</sup> Lange (*R. Alt.* II, 85) attempts, but without success, to explain away this difficulty.

nature of the equestrian centuries, the institution of the annual ceremonial parade known as the *Transvectio Equitum*.<sup>1</sup>

The cavalry naturally shared with the infantry in such public festivals as triumphs, games, and religious ceremonies.<sup>2</sup> But the *Transvectio* was exclusively equestrian. Tradition connects it with the Battle of Lake Regillus, which is said to have been fought in 496 B.C. Rome, so the legend runs, owed her victory to the help of the Dioscuri, who fought as cavalymen on her side and afterwards miraculously appeared in Rome itself to announce the victory. To celebrate this the Romans instituted an annual sacrifice to the Dioscuri which was carried out every July 15th, the traditional date of the battle, by the leaders of the cavalry.<sup>3</sup> To this sacrifice Fabius added, in 304 B.C., the *Transvectio Equitum*, probably, as has been suggested above, to increase the prestige of the state cavalry.<sup>4</sup> Decked out in their military garb, wearing their decorations and wreaths of olive, the cavalry rode in solemn procession from the Temple of Mars, outside the *Porta Capena*,<sup>5</sup> through the city to the Temple of the Dioscuri near the Forum.

The *Transvectio* outlived the *census equitum*, continuing until the fourth century A.D.<sup>6</sup> It is sometimes confused with the latter because the Emperors seem to have used the parade as an opportunity to inspect men and horses.<sup>7</sup> But such an inspection cannot have been very thorough, nor can it have superseded the full investigation carried out, in the republican period, by the censors and, in the imperial period, by permanent officials.

The evidence which we possess about the *Transvectio* is both slight and late, so that it is not easy to determine what was the exact form of the procession. The earliest authority is Dionysius, who says that the *equites* were arranged *κατὰ φυλὰς τε καὶ λόχους*. According to the normal usage of Dionysius this should mean 'by tribes and centuries'.<sup>8</sup>

<sup>1</sup> Ancient references to this are as follows: Livy, IX, 46, 15; Val. Max. II, 2, 9; Dion. Hal. VI, 13; *De Vir. Illust.* 32, 3; Pliny, *Nat. Hist.* XV, 19; Sueton. *Aug.* 38, 3; Tacit. *Ann.* II, 83, 5; Plut. *Coriol.* 3. Cf. Zosim. II, 29; Ulpian, *Dig.* II, 4, 2. Helbig (*Die Castores*) connects the institution of the *Transvectio* with the change from mounted hoplites to true cavalry. See above, p. 22 f.

<sup>2</sup> e.g. Livy, X, 46, 3 (a triumph); Dion. Hal. VII, 72 (the *Ludi Magni*).

<sup>3</sup> Dion. Hal. and Plutarch, *loc. cit.*

<sup>4</sup> See Livy, Val. Max. and *De Vir. Illust. loc. cit.*

<sup>5</sup> So Dion. Hal. *loc. cit.* *De Vir. Illust. loc. cit.* says it was the Temple of Honos.

<sup>6</sup> Mommsen, *Staatsr.* III, 495, n. 1.

<sup>7</sup> For the evidence see Mommsen, *id.* III, 493. Cf. Stein, 57 f. Sueton. *Aug.* 38 is muddled. In the Republic there seems to have been no connection between the *Transvectio* and the *census equitum*. Cf. Mommsen, *Staatsr.* II, 371, n. 4.

<sup>8</sup> For *λόχος* = *centuria* see IV, 18, etc. Belot (I, 193 f.) takes *λόχος* as meaning *curia*, but his theory is unnecessarily elaborate.

On the other hand, later writers in the imperial period speak of *turmae* in this connection.<sup>1</sup> This divergence led Mommsen to alter the text of Dionysius to *κατ' ἕλας τε καὶ λόχους*—a hazardous procedure. A more probable explanation is that Dionysius is describing the republican system, which differed considerably from that of the Empire. The *turma* of imperial times seems to have been a development of the republican *centuria*, not of the republican *turma*. It is better, therefore, to assume that in the republican *Transvectio* the *equites* were arranged in centuries, *φυλαί* being the old six and *λόχοι* the later twelve centuries. Such an arrangement would, in view of the religious sanctity of the six old centuries, be more suitable to a religious procession than the military arrangement by *turmae*.<sup>2</sup>

For nearly a century after Fabius there seems to have been no important change in the methods of carrying out the census. Between his censorship and that of C. Flaminius in 220 B.C. there are only two in which we have mention of the cavalry. In 276–275 B.C., we are told, the censors C. Fabricius and Q. Aemilius expelled some men from the equestrian centuries,<sup>3</sup> and in 252 B.C. the censors M'. Valerius and P. Sempronius had to take disciplinary action against four hundred cavalrymen who had refused to obey the orders of the consul C. Aurelius Cotta in Sicily. So serious was this mutiny that, in addition to the degradation inflicted by the censors, the Senate passed a special decree cancelling the previous service of the men involved.<sup>4</sup> The episode throws an interesting light on the pride of the cavalry, since their disobedience consisted in refusing to perform manual work from which they were usually exempt.

In the second half of the third century B.C. there occurred that important change in the centuriate system which is usually called the Reform of the *Centuriata*. The exact date of the change is uncertain, and it may even have been made gradually and not all at one time.<sup>5</sup> Whenever it occurred, it was certainly the work of censors, and one is tempted to attribute at least a share in it to C. Flaminius, the great democratic censor of 220 B.C. The information given about the Reform by ancient writers is very scanty and obscure, whereas

<sup>1</sup> Suetonius, Tacitus and Pliny, *loc. cit.*

<sup>2</sup> We may, perhaps, see a stage in the development of the republican centuries into *turmae* in the imperial period in an inscription of the time of Augustus recording a *sevir centuriarum equitum* (C.I.L. VI, 3530 = Dessau, I.L.S. I, 1314). Cf. L. R. Taylor in J.R.S. XIV (1924), 158 f.; O. Hirschfeld, *Unters. auf d. Gebiete der röm. Verwaltungsgesch.* I, 240 f.; J. Weinstock in *Studi e Materiali di Storia delle Relig.* XIII (1937), 10 f.

<sup>3</sup> Zonaras, VIII, 6.

<sup>4</sup> Frontinus, *Strat.* IV, 1, 22; Val. Max. II, 9, 7.

<sup>5</sup> The experts vary between 241 B.C. and 220 B.C. See especially Botsford, *R. Ass.* 215.



modern literature on the subject is very extensive and full of contradictory theories.<sup>1</sup> We are concerned here only with the effects of the Reform on the equestrian centuries, and on this point there is fairly general agreement. In some way the Servian system of classes and centuries was made more democratic by being linked with the tribes, but the cavalry, standing as they did somewhat apart from the class system as applied to the infantry, do not seem to have been directly affected by the change. Whatever the new total of infantry centuries was, that of the cavalry centuries remained at eighteen, and we still find the same division into two groups of six and twelve centuries which existed in the original centuriate system.<sup>2</sup>

Indirectly, however, the equestrian centuries were affected in several important ways. In the first place, the increase in the total number of voting centuries which is generally assumed to have taken place would naturally lessen the value of the equestrian vote.<sup>3</sup> The value of that vote was also lessened by a change in the method of selecting the *centuria praerogativa*. Hitherto this important privilege of voting first had belonged to the cavalry.<sup>4</sup> It was now taken from them and henceforward the *centuria praerogativa* was selected by lot, probably from the centuries of the first Class.<sup>5</sup>

Perhaps the most difficult question connected with the Reform is that of the order of voting, and this concerns the cavalry especially. Dionysius<sup>6</sup> says, mysteriously, οὐ τῶν λόχων καταλυθέντων ἀλλὰ τῆς κλήσεως αὐτῶν οὐκέτι τὴν ἀρχαίαν ἀκρίβειαν φυλαττούσης. By this he seems to mean that the cavalry no longer voted separately but were included with the first Class.<sup>7</sup> Of this there is confirmation in passages of Livy and Cicero.<sup>8</sup> Neither of these passages is very clear, and many different interpretations have been placed upon them, but when Livy speaks of the twelve equestrian centuries 'and many others of the first Class', and when Cicero records the votes of the first Class without any separate mention of the equestrian centuries, they both imply that these centuries voted with the first Class. The fact that Livy

<sup>1</sup> See De Sanctis, *Storia*, III, 353 f., and other works mentioned in Bibliography.

<sup>2</sup> Theories like those of Gerathewohl (*Append.*) and Lange (*R. Alt.* II, 511 f.), which give the *equites* only six votes in the reformed *Centuriata*, cannot stand in view of the reference to at least twelve equestrian votes in Livy, XLIII, 16. Cf. above, p. 16.

<sup>3</sup> The theory of Pantagathus about the number of centuries, or some variation of it, now seems to hold the field. Mommsen's attempt (*Staatsr.* III, 270 f.) to prove that the number of voting centuries remained unchanged is not generally accepted.

<sup>4</sup> Above, p. 14.

<sup>5</sup> Livy, XXIV, 7, 12; XXVI, 22; XXVII, 6, 3; Cicero, *Phil.* II, 82.

<sup>6</sup> IV, 21.

<sup>7</sup> Cf. X, 17, which may, as Belot (I, 375, n. 1) suggests, be an anachronism introducing into the early Republic the practice of Dionysius' own time.

<sup>8</sup> Livy, XLIII, 16; Cicero, *Phil.* II, 82. See Appendix I.

mentions only twelve centuries of cavalry and that Cicero makes a mysterious reference to *suffragia* has led to a belief that the *Sex Suffragia* voted separately from and after the other twelve centuries.<sup>1</sup> It is, however, possible to explain Livy's words otherwise<sup>2</sup> and the text of Cicero is uncertain, so that there can be no certainty on this point.<sup>3</sup> To the present writer it seems highly improbable that any distinction between the *Sex Suffragia* and the other twelve equestrian centuries existed after the exclusion of senators from the eighteen centuries.<sup>4</sup>

Another aspect of censorial activity is illustrated by the special *lectio senatus* of 216 B.C.<sup>5</sup> The heavy losses among senators caused by the early battles of the Second Punic War, and especially by the battle of Cannae, made it imperative that the depleted ranks of the Senate be filled up. The task, usually performed by censors, was entrusted to a specially appointed dictator, M. Fabius Buteo, who, after protesting against the irregularity of his office, carried out the work of enrolment as quickly as he could. In order to avoid any suspicion of partisanship he made his choice of new senators as automatic as possible, and his method thus reveals the basic principles which the censors normally followed. He first selected ex-curule magistrates and then other ex-magistrates. In a normal census this would have sufficed to fill the gaps in the Senate,<sup>6</sup> but Fabius still had places to fill. He therefore chose his other senators, according to Livy, *ex iis qui magistratum (nondum) cepissent, qui spolia ex hoste fixa domi haberent aut civicam coronam acceperissent*,<sup>7</sup> that is, from men who had had a distinguished military career. The Epitomator of Livy simplifies this by saying *senatus ex equestri ordine hominibus CXC VII suppletus est*. This, though a departure from the actual words of Livy, is no doubt quite correct. The usual preliminary to a senatorial career was service in the cavalry, and Fabius merely extended his choice to include men who were still in that preliminary stage. It was a principle applied, according to Livy himself,<sup>8</sup> by the first consul, Brutus, and it was to be applied again by Sulla.<sup>9</sup>

The censors of the period of the Second Punic War were mainly

<sup>1</sup> See e.g. Denniston on Cicero, *loc. cit.*; De Sanctis, *Storia*, III, 360 f.

<sup>2</sup> Above, p. 15 f.

<sup>3</sup> See Appendix I, and the sensible remarks of E. Klebs in *Z. d. Savigny-Stift.* XII (1892), 237 f.

<sup>4</sup> See below, p. 105 f. and Appendix I.

<sup>5</sup> Livy, XXIII, 22 f. Cf. Willems, *Le Sénat*, I, 285 f.

<sup>6</sup> See Willems, *op. cit.* I, 157 f.

<sup>7</sup> On the text see H. Hill in *C.Q.* XXVI (1932), 172.

<sup>8</sup> II, 1, 10. Cf. Festus, s.v. *Adlecti*, p. 6; s.v. *Conscripti*, p. 36.

<sup>9</sup> See H. Hill, *loc. cit.* 170 f., and below, p. 147.

concerned with the maintenance of discipline and the enforcement of military service. Thus those of 214 B.C., M. Atilius Regulus and P. Furius Philus, had to deal with the cases of the men who planned to desert after Cannae, and with those too ingenious envoys from the captive Romans who tried to evade the parole they had given to Hannibal. All these were punished with complete degradation, including the taking away of the *equus publicus* from those who had it. The censors also degraded all those found guilty of evading military service.<sup>1</sup> In the same way, the censors of 209 B.C., P. Sempronius Tuditanus and M. Cornelius Cethegus, punished the cavalry who had survived the battle of Cannae and also concerned themselves with recruiting.<sup>2</sup>

The censorship of M. Livius Salinator and C. Claudius Nero in 204 B.C. is chiefly remarkable for the bitterness of the feud between the two censors. It provides important evidence for the retention of the public horse by senators, for both the censors had it though Livius, at least, was well past the age for active service.<sup>3</sup>

In contrast to the mildness of the treatment of the cavalry by the censors of 194 B.C.<sup>4</sup> and 189 B.C.,<sup>5</sup> Cato, as censor in 184 B.C., exercised his control over them with his usual vigour. He seems to have had strong views about them, as about most things. Already, in his consulship in 195 B.C., while in command in Hither Spain, he had delivered an *Oratio apud Equites* at Numantia. The two fragments of this speech which survive are not sufficient to tell us the nature or purpose of it, but it has been reasonably conjectured, from the cowardly behaviour of the cavalry at a battle near Emporiae, that his theme was the ancient prowess of the cavalry as compared with their present ineffectiveness.<sup>6</sup>

Cato's anxiety for a more efficient cavalry force is shown still more clearly in a speech delivered in the Senate in which he proposed that the number of *aera equestria* be increased to 2,200.<sup>7</sup> Almost every detail of the scanty fragments of this speech has been disputed, and what follows is the version which seems to fit the circumstances best.<sup>8</sup> The speech was almost certainly delivered shortly after Cato's election

<sup>1</sup> Val. Max. II, 9, 8; Livy, XXIV, 18, 43.

<sup>2</sup> Livy, XXVII, 11.

<sup>3</sup> Above, p. 15, and P.-W. s.v. *Livius*, No. 33.

<sup>4</sup> Livy, XXXIV, 44, 4 f.

<sup>5</sup> Livy, XXXVIII, 28, 2.

<sup>6</sup> Malcovati, *Or. Rom. Frag.* I, p. 24 f.; 158 f.

<sup>7</sup> Fragments in Malcovati, *op. cit.* I, p. 178 f. Cf. P. Fraccaro, *Ricerche*, 47 f.

<sup>8</sup> In general it is the version of Fraccaro, *loc. cit.* and 106 f., most of whose conclusions I had reached independently before reading his work. For other interpretations of the speech see P.-W. s.v. *Equites*, VI, 279 f.; Malcovati, *op. cit.* I, 39 f.; Botsford, *R. Ass.* 96 f.; Belot I, 388 f.; Gerathewohl, 46, etc.

to the censorship, and was probably part of the usual negotiations between the new censors and the Senate about the sums of money which the former should be empowered to spend during their period of office. Cato's proposal was that, instead of providing for the normal 1,800 *equi publici*, the Senate should provide for 2,200, thus increasing the number of state cavalry by 400. The fact that he used the word *restitui* (sometimes altered, without justification, to *institui*) indicates that he could quote a precedent, and the probability is that such an increase had been temporarily made during the Hannibalic War, when the weakness of Rome's cavalry arm was clearly brought out.<sup>1</sup> Whether Cato's suggestion was accepted or not we do not know, but there is no evidence that it was and every probability, in view of the general apathy of the Romans about their cavalry and of the Senate's hostility to Cato, that it was not.<sup>2</sup>

In conducting the *census equestris* Cato showed the same severity as in all the other acts of his censorship. His object appears to have been to rid the equestrian centuries of any suspicion of inefficiency, and so he showed no mercy to anyone incapable of doing useful service.<sup>3</sup> The fragments of his speech against L. Veturius, whom he degraded for both neglect of his family ritual and physical unfitness, reveal a bitter scorn for that bad condition of man or horse which must have been far too common.<sup>4</sup> No doubt Cato took strong objection to the inclusion of senators in the equestrian centuries, since they obviously could not be expected to serve as cavalry except in the most serious emergencies. But a complete remedy for this weakness in the cavalry centuries was not found for more than fifty years.<sup>5</sup> All that Cato could do was to put the strictest possible interpretation on his powers as censor, and this he appears to have done, for instance, in the case of L. Scipio Asiaticus. Asiaticus, the brother of Scipio Africanus, though an ex-consul and a senator of many years' standing, had retained his public horse. Cato deprived him of his horse, though apparently *sine ignominia*, since he remained a member of the

<sup>1</sup> Fraccaro suggests that the proposed increase was to provide 100 extra cavalry for each of the four consular legions and compares Livy, XXII, 36, 3, and Polyb. III, 107, 10,—an attractive conjecture. Possibly the obviously apocryphal attribution to Publicola of a similar addition to the cavalry (Dion. Hal. VI, 44) preserves the tradition of this or some other temporary increase.

<sup>2</sup> We are not justified in assuming, as Fraccaro does, that the increase, if accepted, need have affected the number of equestrian centuries. It is very doubtful if Cato had really considered how the new members were to be distributed among the eighteen existing centuries and hence Mommsen's figures (*Staatsr.* III, 260) are pure guesswork.

<sup>3</sup> Livy, XXXIX, 44, 1; Gellius, IV, 12; VI, 22.

<sup>4</sup> Malcovati, *op. cit.* I, p. 176 f.

<sup>5</sup> Below, p. 105 f.

Senate.<sup>1</sup> Whatever the real motive of Cato's action, whether hatred of Africanus or the charges of embezzlement made against the two brothers after the war with Antiochus, the official reason can only have been physical unfitness.<sup>2</sup>

The next two censorships were uneventful so far as the cavalry was concerned.<sup>3</sup> Then came, in 169 B.C., the censorship of C. Claudius Pulcher and Ti. Sempronius Gracchus. They were very severe in their treatment of the equestrian centuries and in the enforcement of state contracts. As a result they offended the growing Middle Class and Claudius was brought to trial by the tribune P. Rutilius at the instigation of the *publicani*. Their censorship thus provides important evidence about the commercial and political activities of the Middle Class.<sup>4</sup>

The censorships of 164 B.C. and 159 B.C. provide nothing new except a good story,<sup>5</sup> and then there is silence about the *census equitum* until the censorship of Scipio Aemilianus and L. Mummius in 142 B.C. The story of C. Licinius Sacerdos, an *eques* whom Scipio accused of perjury but spared for lack of independent evidence, is well known and a favourite with ancient authors.<sup>6</sup>

With the next censorship for which there is mention of the *census equitum*, that of 125 B.C., we reach the period of C. Gracchus, when the history of the equestrian centuries merges into that of the equestrian Middle Class as a whole. Treatment of the changes then wrought in those centuries is reserved for a later chapter.<sup>7</sup>

<sup>1</sup> Livy, XXXIX, 44, 1; Plut. *Cato Mai.* 18; *De Vir. Ill.* 53. See above, p. 35 f.

<sup>2</sup> *De Vir. Ill.* 53; Val. Max. V, 5, 1. Cf. Fraccaro, *op. cit.* 112 f.

<sup>3</sup> The *census equitum* is mentioned for each: for 179 B.C. in Cicero, *De Orat.* II, 287, and Livy, XL, 45 f., and for 174 B.C. in Livy, XLI, 27, 13, and XLII, 10, 4.

<sup>4</sup> Livy, XLIII, 16; XLIV, 16, 8; XLV, 15, 8. Cf. Val. Max. VI, 5, 3; *De Vir. Ill.* 57. See above, p. 16, and below, p. 89 f.

<sup>5</sup> Plut. *Aem. Paul.* 38 (164 B.C.); Gellius, IV, 20, 11; Nonius, *s.v.* *Strigosus*, p. 247 (Lindsay) (159 B.C.).

<sup>6</sup> Cicero, *Clu.* 134; Val. Max. IV, 1, 10; Quintil. V, 11, 13; Plut. *Apophth. Scip. Min.* 12. Cf. for this censorship Cicero, *De Orat.* II, 258; 268; Dio Cass. *Frag.* 75, 1; Gellius, III, 4, 1; VI, 11, 9.

<sup>7</sup> Chapter V.

### CHAPTER III

## THE GROWTH OF THE MIDDLE CLASS

POLYBIUS, writing in the middle of the second century B.C., recognizes the existence of only two classes in Rome—the senatorial class and the mass of the people. Even when he discusses the carrying out of public contracts, an activity which came to be especially associated with the Middle Class, he writes of it as a transaction involving only Senate and people.<sup>1</sup> His authority must be accepted as proving that, from a strictly official point of view, there was no Middle Class in existence at that time. Yet a Middle Class certainly did exist within a few years of Polybius' death and was, by the time of Cicero, distinguished from Senate and people alike by the title *equester ordo*.

Moreover, other ancient writers use the term *equester ordo* when dealing with periods much earlier than that of Polybius.<sup>2</sup> Though we must, of course, regard all such references as anachronistic, it would be wrong to assume that the Middle Class sprang into being suddenly at the end of the second century B.C. Long before that there were large numbers of men who, though they were officially treated as members of the lower class, regarded themselves as belonging neither to the senatorial aristocracy nor to the mass of the people. The Middle Class evolved gradually from these elements of the population by processes which we must now consider.

When Livy used the term *equester ordo*, he was referring to the eighteen centuries of *equites equo publico*. In several passages he obviously regards them as a separate order lying somewhere between Senate and people, though still nominally part of the latter.<sup>3</sup> The members of the eighteen equestrian centuries who were not of senatorial family were superior socially, politically and in the army to the ordinary mass of citizens, and in this sense they may be regarded as a Middle Class. But the organization of those centuries was too artificial and the elements in them too mixed for them to be regarded as a true Middle Class. As we have seen above,<sup>4</sup> some of their members were senators and others the sons or relatives of senators.

<sup>1</sup> Polyb. VI, 17.

<sup>2</sup> e.g. Dion. Hal. VI, 27; 34; 44; X, 10; 13; 30; XI, 33, *al.*; Festus, p. 6; 36; Val. Max. II, 7, 7; III, 2, 9; 4, 2; 7, 1; Orosius, IV, 16, 8; Florus, I, 22, 24; Dio Cass. *Frag.* 10, 4; Appian, *Han.* 18; Zonaras, VII, 10; 13; 20. For Livy see below.

<sup>3</sup> See especially XXVI, 36; XLIII, 16. For a fuller discussion see H. Hill in *C.Ph.* XXV (1930), 244 f.

<sup>4</sup> Above, p. 15 f.

Even the non-senatorial members were carefully selected by the censors and retained their places in the centuries for only a limited time. When senatorial influence was strong, the equestrian centuries were largely senatorial in composition and sympathies, as is shown by the consistent support they gave to the Senate in the early Republic. Gradually, however, the Senate lost its grip on them, and that is not surprising. There were, as we have seen,<sup>1</sup> at least 1,800 places in the equestrian centuries. Actual senators, even if all senators retained the public horse, would fill only 300 places. Prospective senators would account for a much smaller number.<sup>2</sup> Even with the addition of the sons and other relatives of senators, the senatorial element was probably considerably less than half the total. So long as the other members could be relied upon to support the Senate all went well. But one anti-senatorial pair of censors could easily alter the balance within the equestrian centuries. Thus, in 169 B.C., we find eight of the eighteen centuries voting against the Senate.<sup>3</sup> Here, then, within the equestrian centuries, was the nucleus of a class different from and potentially hostile to the senatorial class. At the same time, these men felt themselves to be superior to the mass of the people, as is shown by their refusal, on several occasions, to submit to the same kind of discipline as the legionaries.<sup>4</sup>

Membership of the equestrian centuries conferred considerable social prestige. When, therefore, at the end of his period of service, a man surrendered his public horse, though technically he ceased to be an *eques*, he was socially superior to the ordinary citizen. We do not know which, if any, of the insignia of equestrian rank he was allowed to retain, but we can be quite sure that he did retain a consciousness of his superiority. We have no means of assessing the number of such retired *equites* but it must have been large and continually growing. Cut off from a senatorial career by the exclusiveness of the senatorial class, possessing considerable wealth and still in early middle age, these men turned naturally to a commercial or financial career from which senators were excluded. They formed another section of the embryo Middle Class.

The principal qualification for membership of the equestrian centuries was the possession of a certain amount of property, probably, as we have seen, originally the same as that required for the

<sup>1</sup> Above, p. 7 f.

<sup>2</sup> Willems (*Le Sénat*, I, 161 f.) calculates that there would normally be only about ten vacancies each year in the Senate.

<sup>3</sup> Livy, XLIII, 16, 14. See above, p. 16.

<sup>4</sup> e.g. Frontinus, *Strat.* IV, 1, 22; Val. Max. II, 9, 7. Above, p. 39.

first Class of infantry.<sup>1</sup> This means that every man in the first Class of infantry had a chance of being made an *eques* and was only prevented from receiving this honour by the limitation of the number of horses provided by the state. It is easy to see that the men thus excluded from the equestrian centuries could reasonably claim superiority to the ordinary mass of citizens condemned to serve always in the infantry. When, at the end of the fifth century B.C., they volunteered to serve as cavalry on horses provided by themselves, they laid claim to this superiority and the state recognized their claim by allowing them to serve in this way. Livy, in fact, in recording the episode, seems to regard it as marking the foundation of the equestrian class.<sup>2</sup> Though we need not go as far as that, we must recognize in these men who possessed the equestrian property qualification yet another group ripe for inclusion in a Middle Class. Moreover, within that larger group there would be many who, through actually having served in the supernumerary cavalry, could claim the title *eques*.

Men of the three types mentioned above, therefore—non-senatorial members of the equestrian centuries, ex-members of those centuries and non-members who were qualified by their wealth for membership—gradually formed a fairly homogeneous Middle Class which, by the time of Cicero, bore the title of *equester ordo*. The formation of this class cannot be said to have been complete until some more definite criterion for membership of it had been established. That criterion was, almost certainly, a minimum amount of property (*census equester*). When a census amount was first fixed is uncertain, but we shall give reasons for believing that it was not until the time of the Gracchi.<sup>3</sup> But long before this happened these various elements, though not yet organized as a separate class, were conscious of their common interests and were taking steps to protect them. Their peculiar position, placed as they were between the exclusive senatorial aristocracy which few of them could hope to enter and the mass of the people whom they despised, united them and directed their wealth and very considerable ability mainly towards those commercial and financial activities which are the usual sphere of any Middle Class. Practically all other careers were closed to them. Politics were the preserve of the aristocracy. The professions—teaching, medicine, etc.—were largely in the hands of freedmen or

<sup>1</sup> Above, p. 8.

<sup>2</sup> Livy, V, 7, 7. Cf. H. Hill in C.R. XLIII (1929), 12 f. Above, p. 17 f.

<sup>3</sup> Below, p. 110 f.



slaves. The army absorbed some of them as officers, as we have seen,<sup>1</sup> but even here they were at a disadvantage as compared with young senatorials. The owning and farming of land possessed little attraction for them and was, in any case, largely carried on by senators. Industry was on a small scale and generally managed by freedmen. There remained only commerce, finance and speculation.

Here the Middle Class had practically a clear field, chiefly because of the attitude taken up by the Romans to such activities. For, though Polybius may have been right in attributing to the Romans a natural taste for speculation,<sup>2</sup> the conventional Roman view was that such pursuits were undignified, especially for a man of rank.<sup>3</sup> Retail trade, in particular, was held in great contempt,<sup>4</sup> and the word *mercator* was almost a term of abuse.<sup>5</sup> For larger financial operations the Romans had more respect, but it was generally agreed that even a very successful business man was much inferior, in every way, to a member of the senatorial aristocracy.<sup>6</sup> Cicero, for instance, is at pains to assure his rich business friend, Atticus, that he has no feeling of superiority to him and refers to Atticus' business activities as 'honourable retirement'.<sup>7</sup> There was thus in the minds of the Romans the same kind of distinction between men of wealth traditionally engaged in agriculture and public service and those whose wealth was in trade and finance as there was in the minds of Englishmen of the nineteenth century. Just as in England, too, this attitude of mind encouraged the growth of a Middle Class which devoted itself to the despised pursuit of money-making for its own sake.

It is obviously impossible to fix even an approximate date when the development of this class may be said to have begun, especially in Rome where any kind of information for the period before 390 B.C. is scanty and dubious. The property qualification of 100,000 *asses* for the first Class of the Servian System, which we have seen reason to believe was also the qualification for the *equites*,<sup>8</sup> gives us no help. According to Professor T. Frank,<sup>9</sup> 'any farmer who owned twenty *iugera* (thirteen acres) of good land with a simple adobe house, a pair of oxen, a few sheep and a year's crop of wheat (say 160

<sup>1</sup> Above, p. 27 f.

<sup>2</sup> Polyb. XXXI, 27, 11. Cf. Diod. Sic. V, 26; 38; Livy, XXXIII, 29, 4.

<sup>3</sup> Livy, XXI, 63, 4; Cicero, *Verr.* II, 2, 122; *Parad.* VI, 43 f.; Nepotianus, *Epit. Val. Max.* 15, 1, etc.

<sup>4</sup> See, e.g., the case of C. Terentius Varro, a butcher's son (Livy, XXII, 25 f.; Val. Max. III, 4, 4). Cf. Cicero, *Off.* I, 150 f.; *Verr.* II, 2, 122, *al.*

<sup>5</sup> Val. Max. III, 4, 2; Cicero, *Repub.* IV, 7, 7; *Orat.* 232; *Pis. Frag.* 11; 62; 87; Dion. Hal. IX, 25.

<sup>6</sup> Cicero, *Off.* I, 150 f.; Cato, *De Agric. Proem.*

<sup>7</sup> *Ad Att.* I, 17, 5.

<sup>8</sup> Above, pp. 8, 18 f.

<sup>9</sup> *Econ. Surv.* I, 22.

bushels) would apparently qualify for the first class'. Such men were clearly not budding capitalists. But this qualification was a minimum and we have no means of assessing individual fortunes at this early period. Nevertheless, it is important to notice that the activities of merchants and moneylenders are frequently mentioned by Livy, Dionysius and others who deal with that period. Profiteering, for instance, was common enough. A scarcity of grain inevitably meant a rise in its price, so that the state frequently had to step in and bring down the price by bulk purchases.<sup>1</sup> Similarly, there was so much profiteering in salt that a state monopoly had to be created.<sup>2</sup> Stories like that of Sp. Maelius, whether in themselves true or false, indicate how dangerous situations might arise out of the wealth of these profiteers.<sup>3</sup> Commerce, especially overseas commerce, was probably small and of slight importance at this period,<sup>4</sup> but Italian traders were very bold and more often preceded than followed the legions. Even in states which were hostile to Rome they were often to be found, sometimes acting as spies and obtaining valuable information for the government.<sup>5</sup> Livy quotes as proof of the remoteness and inaccessibility of the Ciminian Forest in the fourth century B.C. the fact that it was 'not visited even by traders'.<sup>6</sup> They also accompanied the armies on campaigns in order to supply the troops with goods and to purchase the booty which was often sold on the spot.<sup>7</sup>

Such sea-borne trade as there was was probably, at first, carried on by Italians or by Greeks resident in Italy. The merchants who were the cause, or excuse, for the seizure of Sardinia in 237 B.C. and for the Illyrian Wars soon after that, for example, were probably not Romans but Italians.<sup>8</sup> But the First Punic War gave the Romans, too, experience of the sea, and their attention began to be turned across the Adriatic to Greece, the gateway to the trade of the Eastern Mediterranean. Though the actual traders were still, probably, largely Italians or Greeks, Roman capital began to be involved.<sup>9</sup>

Even more often than traders do we find moneylenders mentioned,

<sup>1</sup> Frank, *op. cit.* I, 24; 97; 158, etc. To his references may be added Livy, II, 12, 1; X, 11, 9.

<sup>2</sup> Livy, II, 9, 6 f. Cf. XXIX, 37, 3.

<sup>3</sup> See P.-W. s.v. *Maelius*, XIV, 1, 239 f.

<sup>4</sup> Frank, *op. cit.* I, 54 f.

<sup>5</sup> Livy, I, 30, 4 f.; IV, 24, 2; V, 8, 2 f.; VI, 2, 2, *al.* Cf. Dion. Hal. III, 32.

<sup>6</sup> IX, 36, 1.

<sup>7</sup> Polyb. X, 16; XIV, 7, 2 f.; Livy, IV, 53, 10; X, 17; 20; Dion. Hal. IX, 12; Appian, *Hisp.* 40; 85; *Pun.* 25; 115 f.; Sallust, *Jug.* 44, etc.

<sup>8</sup> Frank, *op. cit.* I, 54 f.; 71; 73; 102 f.; E. Pais, *Hist. Rom.* 252; 295. Cf. below, p. 92. For early Italian trade see Rostovtzeff, *Hell. World*, I, 120 f.; N. J. DeWitt in *T.A.Ph.A.* LXXI (1940), 605 f.

<sup>9</sup> e.g. Plut. *Cato Mai.* 21. Below, p. 94 f.

and their activities and methods created serious difficulties for the Roman government on many occasions. It is well known that debt was the most pressing economic grievance of the poor in republican Rome and was the cause of many disturbances. A whole series of laws (the *leges fenebres*) was passed to curb the moneylenders, but none seems to have had much effect.<sup>1</sup> All this was in spite of the fact that usury was officially discouraged in Rome and the usurer was the object of much contempt and moral indignation.<sup>2</sup> Many of the men engaged in trade or speculation of these types would naturally be of comparatively small means such as would not qualify them for membership of a Middle Class. Some of the wealthier ones would be senators. But, as Rome grew more prosperous, the tendency was for such activities to be on a large scale and to require more capital. Hence they were more and more controlled by wealthy men, most of whom were not members of the senatorial aristocracy but of the equestrian Middle Class. Their financial interests tended to knit them together and they gradually came to form a distinct class which, in popular language at least, was given the title of *equites*. When the title was first applied to them it is impossible to decide because the usage of later writers like Livy is not reliable evidence of date.

Plautus is the earliest writer to give us any help. In his comedies we find frequent references to moneylenders, bankers, merchants and other types of business men. They are almost invariably treated with hostility and contempt and, though part both of the actual references and of the general attitude may be attributed to Plautus' Greek originals, a good many of the allusions are clearly Roman and reflect, therefore, the popular attitude to such men in Rome.<sup>3</sup> It is just the attitude one would expect to find in a community where the mass of the people was poor towards a minority which was rapidly growing rich by methods traditionally regarded as disgraceful.

An even more important piece of evidence on this subject is the *Lex Claudia* of 218 B.C., a law which restricted the capacity of ships which could be owned by senators or their sons to 300 *amphorae* (about 225 bushels). Ships of this size were considered suitable for transporting farm produce for short distances but were too small for

<sup>1</sup> See Frank, *op. cit.* I, 12; 28 f.; G. Billeter, *Gesch. d. Zinsfusses*, 115 f. Cf. Livy, XXXV, 7. For the failure of the *leges fenebres* see, e.g., Plautus, *Curc.* 506 f. References to moneylending are too numerous to quote.

<sup>2</sup> Cicero, *Off.* I, 150; II, 89; Cato, *De Agric. Proem.*; Sallust, *Ad Caes.* I, 5, 7.

<sup>3</sup> References which have an unmistakably Roman origin are to be found in: *Asin.* 116 f.; *Aulul.* 525 f.; *Capt.* 489; *Cas. Prol.* 23 f.; *Curc.* 480 f.; 506 f.; *Rud.* 630 f. *Mercator*, 75, may be an allusion to the *Lex Claudia* of 218 B.C., for which see this page.

regular trading overseas.<sup>1</sup> Apparently, down to this time, tradition, combined with the fact that there was no very considerable volume of sea-borne trade, had been sufficient to restrain senators from engaging in commerce. But the position had been greatly altered by the seizure of Sardinia, Corsica and Sicily after the First Punic War. These, Rome's first overseas possessions, provided a fruitful and expanding field for commercial and financial operations and senators were no doubt tempted to enter it, even if they had not already done so. The *Lex Claudia*, proposed by the tribune Q. Claudius, was supported by the great popular leader C. Flaminius. Its motives were probably mixed, partly sheer hatred of the senatorial class, partly concern for the purity of the Senate's administration of the new provinces and possibly also a desire to make wars of conquest less attractive to senators. It is doubtful whether either Claudius or Flaminius foresaw the two main effects of the law. In the first place, by tying down senators to land-owning and agriculture, it helped the growth of those large estates (*latifundia*) which contributed so much to the ruin of the small farmers of Italy. Secondly, it accelerated the rise of the equestrian Middle Class which took over the commercial activities forbidden to senators. It is true that the law was not completely effective. Methods were found of evading it by the use of agents,<sup>2</sup> and it had become a dead letter by the time of Cicero,<sup>3</sup> so that it had to be re-enacted by Caesar.<sup>4</sup> But such evasions were essentially secret and restricted in scope, and the task of developing the new sources of wealth fell more and more to the Middle Class. It is even possible that the middle class business men had a hand in the passing of the law, for it is about this time that we first hear of them attempting to interfere in politics.<sup>5</sup>

Another profitable pursuit which was officially closed to senators and thus fell into the hands of the Middle Class was the carrying out of state contracts. These contracts were controlled by the Senate and administered by the censors or, failing them, by the consul, praetor or other magistrate empowered by the Senate.<sup>6</sup> The Senate decided what contracts were to be carried out and allotted the necessary money from the treasury.<sup>7</sup> The censors then held a public auction

<sup>1</sup> Livy, XXI, 63, 3 f.

<sup>2</sup> Livy, XXXV, 7, 1 f.; Plut. *Cato Mai.* 21.

<sup>3</sup> Cicero, *Verr.* II, 5, 45 f. Cf. for senators engaged in commerce through agents *Ad Fam.* XII, 21; 29, 1; XIII, 41; 42; *Ad Quint.* I, 2, 10, *al.*

<sup>4</sup> *Dig.* 50, 5, 3.

<sup>5</sup> Below, p. 88 f.

<sup>6</sup> Mommsen, *Staatsr.* II, 426 f. On the exclusion of senators from accepting state contracts see *id. ib.* III, 509 f.

<sup>7</sup> Livy, XXXIX, 44, 5; XL, 46, 16; 51, 2; XLIV, 16, 9; Polyb. VI, 13 f. Cf. Fraccaro, *Ricerche*, 125 f.; Mommsen, *Staatsr.* II, 445 f.; Marquardt, *Staatsverw.* II, 85 f. *al.*

and the individual offering the most favourable terms was given the contract. Naturally contracts varied greatly in size and importance and their value increased with the increase in Rome's wealth. At first they were largely for constructional work or repairs to public buildings, roads, bridges etc., which could be undertaken by a single individual,<sup>1</sup> but later, larger contracts, beginning probably with the provision and transport of food and equipment for the armies abroad, necessitated the formation of companies (*societates*) with elaborate organizations of partners and shareholders.<sup>2</sup>

Contracts of this type, for the spending of public money, were known as *ultra tributa*.<sup>3</sup> Still more important, at least after the great wars, were the contracts which the censors let for the collection of moneys or commodities due to the state (*vectigalia*). The problem of the efficient and economical collection of revenues was a difficult one for all ancient states, particularly those, like Rome, where there was no organized Civil Service. The only possible solution, short of the creation of a Civil Service, was a system of tax-farming such as already existed in Greece and the Hellenized East.<sup>4</sup>

Before Rome conquered her overseas empire, the regular income of the state, as opposed to occasional windfalls from fines, booty, etc., came from two sources—taxes and the revenues from various properties owned by the state. The principal tax was the *tributum*, a tax proportionate to the property of citizens, exacted only in time of need and regarded as a loan rather than a tax. Based upon the assessments made by the censors, it was collected by state officials, probably by the *tribuni aerarii* originally, and later by the quaestors. It was abolished in 167 B.C.<sup>5</sup> In addition, there was a tax of 5 per cent on manumissions (the *vicesima libertatis*), the proceeds of which fed a special reserve fund. Its collection was probably farmed.<sup>6</sup> The property owned by the state was mostly land (*ager publicus*), the amount of which increased as Rome conquered the rest of Italy. Some of this land (e.g. the Campus Martius) was reserved for public use and therefore produced no revenue, but the rest was exploited in various ways. According to the Elder Pliny, the oldest form of revenue was the rent (*scriptura*) paid for the pasturing of sheep and

<sup>1</sup> For various contracts see Frank, *Econ. Surv.* I, Index; Mommsen and Marquardt, *loc. cit.*

<sup>2</sup> See below, p. 54. On the organization of *societates* see Rostovtzeff, *G. d. Staatsp.* 367 f. and his references.

<sup>3</sup> Livy, XXXIX, 44, 7; XLIII, 16, 2 f.; Varro, *Ling. Lat.* VI, 11; *Tab. Herac.* 73.

<sup>4</sup> Rostovtzeff, *G. d. Staatsp.* 332 f.; *Hell. World*, Index s.v. *Tax-farmers*.

<sup>5</sup> Marquardt, *Staatsverw.* II, 157 f.

<sup>6</sup> See especially Cagnat, *Imp. Ind.* 153 f. Evidence for the method of collection belongs to the imperial period.

cattle on public land.<sup>1</sup> The collection of the *scriptura* was in the hands of tax-farmers, who seem to have been very vigilant.<sup>2</sup> The tenant of arable land owned by the state probably paid a tithe (*decuma*) in kind, also collected by tax-farmers, but the evidence on this point is confused and the facts disputed.<sup>3</sup> The general word for revenues, *vectigalia*, appears to derive from the deliveries made by farmers in payment of this tithe.<sup>4</sup> The various agrarian laws of the second and first centuries B.C. gradually disposed of the public land in Italy, the last of it, the *ager Campanus*, being distributed by Caesar in 59 B.C. After that, revenue from this source was negligible.<sup>5</sup>

The salt works of Italy were state-owned and salt was, as we have seen, a state monopoly from very early times. The actual production was in the hands of contractors who rented the pits or pans from the censors, but it is probable that the revenue was not large because the main concern of the state was to keep down the price of salt.<sup>6</sup>

In addition, the state owned forests, mines and fisheries, all of which were also worked by contractors.<sup>7</sup> The ownership by the state of coastal areas and ports was no doubt the basis for the levying of customs dues (*portoria*), another important source of revenue. They, too, were administered by tax-farmers. The history of *portoria* in Italy is very obscure. Plautus, at the end of the third century B.C., often mentions them and, even though his references may be a mere reflection of his Greek models, this fact shows that the word, at least, was familiar to his audiences. Our earliest direct reference to Italian *portoria* is in an obscure passage of Livy relating to 199 B.C.<sup>8</sup> Their number was increased by the censors of 179 B.C.<sup>9</sup> and again by C. Gracchus in 123-2 B.C.,<sup>10</sup> but in 60 B.C. the praetor Q. Metellus Nepos abolished them.<sup>11</sup> Julius Caesar restored them in 45 B.C.<sup>12</sup> The

<sup>1</sup> *Nat. Hist.* XVIII, 11. Cf. Trapenard, *L'Ager Scripturarius*, 11 f., to whose references must be added *Lex Agrar.* 14-39.

<sup>2</sup> Varro, *De Re Rust.* II, 1, 16; Festus, *s.v. Scripturarius*, p. 446; Plautus, *Trucul.* 140 f.

<sup>3</sup> Appian, *Civ.* I, 7; Livy, IV, 36; XXVII, 3, 1; Festus, *s.v. Venditiones*, p. 516. Cf. P.-W. *s.v. Ager Publicus*, I, 791 f.; *s.v. Decuma*, IV, 2307 f.; Frank, *Econ. Surv.* I, 150 f.

<sup>4</sup> *Isid. Etymol.* XVI, 18, 8.

<sup>5</sup> Cicero, *Ad Att.* II, 16, 1; cf. II, 15, 4. It is uncertain whether there was still some revenue from the *scriptura* after this time, but the amount cannot have been large. Cf. Trapenard, *loc. cit.*

<sup>6</sup> See Marquardt, *Staatsverw.* II, 154 f. Above, p. 49.

<sup>7</sup> Frank, *Econ. Surv.* I, *passim*; P.-W. *s.v. Ager Publicus*, I, 791 f.; *s.v. Bergbau*, Suppl. IV, 119 f.; *s.v. Scriptura*, II, 2, 904 f.; O. Davies, *R. Mines in Europe*, 3 f.; Rostovtzeff, *R. Emp.* 294 f.

<sup>8</sup> XXXII, 7, 3. Cf. De Laet, *Portorium*, 55 f.; Bloch et Carcopino, *Hist. Rom.* 81. The reference in Livy, II, 9, 6, is an obvious anachronism.

<sup>9</sup> Livy, XL, 51, 8.

<sup>10</sup> Vell. Pat. II, 6, 3. Cf. Cicero, *Font.* 2. Below, p. 108.

<sup>11</sup> Dio Cass. XXXVII, 51, 3 f.; Cicero, *Ad Att.* II, 16, 1; *Ad Quint.* I, 1, 33. Below, p. 172.

<sup>12</sup> Sueton. *Div. Iul.* 43. Below, p. 194.

tax was probably one of  $2\frac{1}{2}$  per cent on all imports and exports in the harbours concerned, of which the chief seems to have been Puteoli. That the *portoria* were farmed is shown by Cicero's references to the *publicani* in charge of them,<sup>1</sup> and, though at first their yield may have been small, by the time of Cicero they constituted a good proportion of the Italian revenues.<sup>2</sup>

The carrying out of these state contracts, whether for *ultra tributa* or for *vectigalia*, became the means of livelihood of many men of the Middle Class, who came to be known as *publicani* from *publicum*, the generic word for state revenues.<sup>3</sup> We have no satisfactory means of assessing the amounts involved in the contracts, but until the end of the third century B.C. they were probably not large, since the contracts seem to have been undertaken by individuals.<sup>4</sup> It is not until the year 215 B.C. that we find the first mention in our ancient authorities of the formation of companies (*societates*) to carry out contracts. These were for the provision of food and equipment for the army during the Second Punic War.<sup>5</sup> A natural development of this was that others outside the companies should lend them money at interest, becoming shareholders. By the middle of the second century B.C. this practice had become widespread.<sup>6</sup>

Until the Punic Wars, therefore, we may assume that the *publicani* had no very great importance. But, as a result of those wars, Rome acquired her first territory abroad and with it a very considerable increase in the opportunities for exploitation by the *publicani*.

The earliest of Rome's foreign possessions were Sicily, annexed in 241 B.C. at the end of the First Punic War, and Sardinia and Corsica, annexed in 239 B.C. These were organized, in 227 B.C., into provinces governed by Roman praetors, Sicily forming one province and Sardinia and Corsica together another. Rome had now to take a vital decision—whether to treat her new subjects as she had done the Italians and impose no tribute on them or to exact a tribute. Instead of paying tribute the Italians had to supply auxiliary troops for the Roman army, but Rome could obviously not adopt this policy for the military defence of the provinces. She therefore decided to exact

<sup>1</sup> Font. 2; Verr. II, 3, 27; Ad Quint. I, 1, 33.

<sup>2</sup> Cicero, Ad Att. II, 16, 1.

<sup>3</sup> *Redemptor* was the specific title for a public works contractor (Livy, XXIII, 48, 10; XXXIV, 9, 12; XLII, 3, al.; Festus, s.v. p. 332). *Manceps* was a general word for a bidder at state auctions (Festus, s.v. p. 137). See especially Rostovtzeff, G. d. Staatsp. 376 f.; Mommsen, Staatsr. II, 430 f.

<sup>4</sup> Frank, Econ. Surv. I, 79; 140 f.; 150 f.

<sup>5</sup> Livy, XXIII, 48 f.; XXIV, 18, 10 f.; XXV, 3, 8 f.; XXVII, 10, 13; XXXIV, 6, 13 f. Cf. XLIV, 16; Val. Max. V, 6, 8; Frank, Econ. Surv. I, 84 f.; 102.

<sup>6</sup> Polyb. VI, 17, 2 f. Above, p. 52.

tribute from them, and the fact that the word *stipendium*, meaning basically 'pay for service', was used to describe the tribute shows that it was intended mainly to cover the cost of the military occupation. Later, the provinces came to be regarded as the 'estates of the Roman People' and the tribute as rent for the land.<sup>1</sup> In fact, from the first Rome did own a portion of the land in each province since she always took over as *ager publicus* the property of the former rulers and of any community or individual who had shown exceptional hostility to her.<sup>2</sup> From that *ager publicus* she drew revenues similar to those from the Italian public land. She also imposed customs dues, where feasible, whose proceeds she received. The great majority of the land, however, was left in the hands of its native occupiers who were subjected to tribute.

Having no previous experience in drawing tribute from subject peoples and neither the time nor the inclination to create an entirely new system, Rome wisely took over almost intact any previously existing arrangements. Sicily had for long paid tribute, in the form of tithes in kind, either to Hiero of Syracuse or to the Carthaginians, and the Romans based their organization on that of Hiero. As grain was the principal product of the island, a large part of the revenues from the tithes consisted of grain, which was shipped by Rome to feed her armies and her civilian markets. There were also tithes on other natural products, notably oil, wine and vegetable crops (*fruges minutae*). The tithes were collected, under an elaborate system of safeguards, by contractors called *decumani* under contracts let in Sicily itself. This meant that the great majority of the contracts fell to Sicilian tax-farmers or to local authorities, who were permitted to farm their own tithes. Thus, even if Roman *publicani* were not formally excluded, they could not compete with those on the spot and the bulk of the Sicilian revenues were kept out of their hands.<sup>3</sup> In 75 B.C., however, the tithes of oil, wine and *fruges minutae* came under their control.<sup>4</sup>

However, there were in Sicily representatives of a powerful Roman *societas* administering the minor revenues—*portoria* and *scriptura*.<sup>5</sup> The latter was, as we have seen, strictly speaking the rent

<sup>1</sup> See Frank in *J.R.S.* XVII (1927), 141 f.

<sup>2</sup> Livy, XXV, 28, 3; Cicero, *Leg. Ag.* I, 5; II, 48; 50 f.; *Verr.* II, 3, 12 f.; II, 5, 53; *Off.* I, 35; *Font.* 12; Tacit. *Ann.* XIV, 18; Hyginus, *De Cond. Ag.* 122, 15. Cf. Marquardt, *Staatsverw.* I, 93; 168; 315 f.

<sup>3</sup> For a full discussion of the Sicilian revenues see Carcopino, *La Loi de Hiéron*. Cf. Scramuzza in Frank, *Econ. Surv.* III, 233 f.; 340 f.

<sup>4</sup> Cicero, *Verr.* II, 3, 18. Cf. Carcopino, *op. cit.* 102 f.

<sup>5</sup> Cicero, *Verr.* II, 2, 169; 171; 176; 182; 185; II, 3, 167; *Leg. Ag.* II, 48; Val. Max. VI, 9, 8; *De Vir.* III, 73; Appian, *Sic.* 2; Ps.-Ascon. p. 113 (Orelli).



for the use of state-owned pastures, and no doubt most of Rome's public land in Sicily consisted of stretches of wild country—mountain sides etc.—which were fit only for grazing land. But some of it must have been arable land let out to farmers who paid both the usual tithes and a rent to the Roman state. The rents were probably also included under the general title of *scriptura* and collected by the Roman *societas*.<sup>1</sup> As the *portoria* of Sicily amounted to 5 per cent, compared with 2½ per cent in Italy, the sums dealt with by this *societas* must have been considerable, and we find that its principal agent (*promagister*) could be a very important person on the island.<sup>2</sup> That the company was wealthy is shown by the fact that it lent money to Sicilian farmers and even, on occasion, acted as banker for the Roman treasury.<sup>3</sup>

Sardinia, like Sicily, was mainly a grain-producing country, and we frequently find its grain exported to feed Rome or her armies.<sup>4</sup> Here, too, as in Sicily, there was a system of tithes which had probably existed before Rome's annexation, but the Romans seem to have exacted from Sardinia a fixed amount of tribute (*vectigal stipendiarium*), either in cash or in kind, irrespective of the yield of the tithes.<sup>5</sup> It would thus appear that the collection of the tithes was a purely local matter and the Roman government concerned itself only with ensuring that the *stipendium* was regularly paid. In such a case, the administration would be in the hands of the governor and his assistants and Roman *publicani* would not be needed. We also read of *ager publicus* in Sardinia, and the revenue from this would be collected by *publicani*.<sup>6</sup> There may also have been some *portoria* for them to exploit, but there cannot have been much profit to be got from this backward and turbulent island.

Of Corsica we know even less than of Sardinia. It was always a poor country and cannot have contributed much to the Roman

<sup>1</sup> Evidence on this point is scanty and disputed. For a detailed discussion see Carcopino, *op. cit.* 225 f.; 285, n. 2. Cf. Scramuzza, *op. cit.* 333 f.; Frank in *J.R.S.* XVII (1927), 142 f.

<sup>2</sup> Cicero, *Verr.* II, 2, 169 f.; II, 3, 165 f.; Carcopino, *op. cit.* 89 f.; Scramuzza, *op. cit.* 312 f.; 340 f.

<sup>3</sup> Cicero, *Verr.* II, 2, 170 f.; 186 f.; II, 3, 165. For the view that there was more than one *societas* see De Laet, *Portorium*, 67 f.

<sup>4</sup> Appian, *Civ.* II, 40; Cicero, *Leg. Manil.* 34; Varro, *De Re Rust.* II, *Praef.* 3; Livy, XXXVI, 2, 13; XXXVII, 2, 12; 50, 10; XLI, 17, 2; XLII, 31, 8. The *alterae decumae* mentioned by Livy would be paid for by Rome. Cf. Cicero, *Verr.* II, 3, 163 f.

<sup>5</sup> Cicero, *Verr.* II, 3, 12; *Balb.* 24; 41; Livy, XXIII, 32, 9; 41, 6; XLI, 17, 2; 28, 8 f.; *Bel. Afr.* 98, 2. Modern scholars disagree on this point. See, e.g., Bloch et Carcopino, *Hist. Rom.* 126; C.A.H. VII, 805; Frank, *Econ. Surv.* I, 140; 323; Bouchier, *Sardinia in Anc. Times*, 62; E. Pais, *St. d. Sard. e della Cors.* 313 f.; Rice Holmes, *R. Repub.* I, 124; C. Bellicini in *Atti del II. Cong. Naz. di Studi Rom.* III, 77 f.

<sup>6</sup> Cicero, *Balb.* 41; *Verr.* II, 3, 27. Cf. Marquardt, *Staatsverw.* I, 99.

treasury. Perhaps its tribute was in kind—in tar, wax and honey—as had been the case when it was ruled by the Etruscans and later by the Carthaginians.<sup>1</sup> In any case it can have had little, if any, interest for the Roman *publicani*. We know nothing of any *ager publicus* or *portoria* in the island.

Rome's next acquisition, the two provinces of Spain, annexed at the end of the third century B.C. as a result of the Second Punic War, but not completely conquered for nearly a century, also paid her a *stipendium* which was collected directly and so did not concern the *publicani*.<sup>2</sup> But Rome's chief Spanish revenues came from the exploitation of the rich mineral resources of the peninsula.<sup>3</sup> These were at first worked under the direct supervision of the governor, but later, probably about 178 B.C., their management was let to companies of business men who invested considerable capital in them. The companies seem to have worked the mines until the time of Sulla.<sup>4</sup> In Spain, too, we hear of *ager publicus* and *portoria*, which were controlled by *publicani*.<sup>5</sup>

In organizing the government of these four earlier provinces, Rome had improvised, often leaving a system to be worked out by the governors by methods of trial and error. Such a practice naturally gave a good deal of scope for mismanagement and dishonesty on the part of officials and also for exploitation by unscrupulous Roman business men. As a result, in directing Roman policy during the first half of the second century B.C., the Senate showed marked reluctance to annex any new territory.<sup>6</sup> When finally circumstances compelled the annexation of two new provinces, Africa and Macedonia, in 148–6 B.C., a new method was found of fixing their system of government. A commission of ten senators was sent out to each province which determined their boundaries and decided the terms on which their inhabitants were to be subject to Rome, in particular the amount of tribute and the method of collection. The decisions of each commission were examined by the Senate and then embodied

<sup>1</sup> Livy, XL, 34, 12; XLII, 7, 2; Pais, *op. cit.* 313 f.; P.-W. s.v. *Corsica*, IV, 1657 f.

<sup>2</sup> *Bel. Hisp.* 42, 2; Cicero, *Verr.* II, 3, 12; *Balb.* 41. Neither, apparently, did they handle the *vicesimae*, a mysterious 5 per cent impost which is variously explained (Livy, XLIII, 2, 12; cf. Van Nostrand in Frank, *Econ. Surv.* III, 127 f.).

<sup>3</sup> Polyb. XXXIV, 9; Livy, XXXIV, 21; Gellius, II, 22, 29; Strabo, III, 2, 147; Diod. Sic. V, 36. For these and other economic resources of Spain see Van Nostrand, *op. cit.* 121 f.; P.-W. s.v. *Hispania*, VIII, 1965 f. Sutherland, *The R. in Spain*; R. Thouvenot, *Bétique*.

<sup>4</sup> Frank, *Econ. Surv.* I, 154 f.; O. Davies, *R. Mines in Europe*, 9. The evidence on this point is weak. Frank, for instance, does not take account of Cicero, *Phil.* II, 48, or Pliny, *Nat. Hist.* XXXIII, 118.

<sup>5</sup> Cicero, *Balb.* 41; *Leg. Ag.* I, 5; II, 51; *Verr.* II, 3, 27; Plut. *Apophth. Scip.* Min. 15.

<sup>6</sup> See especially F. B. Marsh, *Founding of the R. Empire*, Ch. I; Bloch et Carcopino, *Hist. Rom.* 132. Below, p. 98 f.

in a law (*lex provinciae*) which was binding on governors and could not be altered except by resolution of the Senate or the people.<sup>1</sup> The Senate was thus enabled to keep a close control over the activities of both governors and business men in these provinces, and so successful did this method prove that it was applied also to Spain in 133 B.C.<sup>2</sup> and to Sicily in 131 B.C.<sup>3</sup>

In dealing with the revenues, the general principle of the *leges provinciae* appears to have been to arrange that the main source of revenue should be a *stipendium* collected directly. The lesser revenues, those from state property and the *portoria*, were collected under contracts which were leased by the censors in Rome and so fell to Roman business men. Macedonia and Africa illustrate this system very well. Macedonia, conquered in 167 B.C., was not made a province until 148 B.C. In the intervening period, the Senate, reluctant, as we have seen, to annex fresh territory, tried an experiment. The monarchy was abolished and Macedonia was split into four independent republics which were to be self-governing, under the general supervision of Rome. The political arrangements then made do not concern us here, but we are concerned with the organization of the revenues. Unfortunately, as so often happens, the evidence is slight and open to different interpretations. Under the monarchy the revenues had naturally gone into the royal treasury, and we are told that Perseus, the last king, had developed them.<sup>4</sup> They came from four main sources: a tax on all cultivated land, profits from the huge royal estates, including extensive and valuable forests, customs dues and, most valuable source of all, the mines of gold, silver, copper and iron.<sup>5</sup>

In taking control of the country, Rome announced that she would exact only half the tribute paid previously to the kings.<sup>6</sup> Precisely what this meant can only be conjectured, though with some confidence. No doubt the tax on cultivated land continued to be paid in full by the cultivators, Rome taking half the proceeds and the other half going to the four republican governments, who would have to provide for various expenditures such as frontier defence. What happened to the former royal estates is not quite clear.<sup>7</sup> Rome

<sup>1</sup> Bloch et Carcopino, *op. cit.* 135 f.; Willems, *Le Sénat*, II, 703 f.

<sup>2</sup> Appian, *Hisp.* 99; Van Nostrand, *op. cit.* 138.

<sup>3</sup> Cicero, *Verr.* II, 2, 32; Scramuzza, *op. cit.* 246 f.; Cowles, *Verres*, 29 f. Below, p. 105.

<sup>4</sup> Livy, XXXIX, 24, 2; XLII, 12, 52; Diod. Sic. XXX, 9.

<sup>5</sup> Livy, XXXIX, 24; XLV, 18, 29; 40. Cf. Rostovtzeff, *Hell. World*, 632 f. *al.*

<sup>6</sup> Livy, XLV, 18, 7; 29, 4; Diod. Sic. XXXI, 8; Plut. *Aem. Paul.* 28, fixes the amount at 100 talents. Cf. Polyb. XXXVII, 9, and Larsen in Frank, *Econ. Surv.* IV, 298.

<sup>7</sup> Owing to corruption in the text of Livy, XLV, 18, 3.

appears to have assumed control over them. Probably the agricultural land remained in the hands of its previous tenants who would pay their rents, possibly reduced by half in accordance with Rome's pledge, to the Roman state.<sup>1</sup> But the forests presented a serious problem in that their timber was very valuable for shipbuilding and Rome was particularly concerned to prevent the growth of any sea-power in the Eastern Mediterranean. The Senate, therefore, forbade the cutting of any timber,<sup>2</sup> thus, of course, forfeiting the revenues. What happened to the *portoria* we do not know, but it is probable that the local governments were allowed to draw the revenue from them.<sup>3</sup> The most difficult problem of all for the Roman government was that of the mines. Under the kings they appear to have been leased to companies or private individuals, but to allow these contracts to continue would have been to run the risk that some Macedonians would continue to grow rich and so, perhaps, become too powerful. On the other hand, had the Senate leased them to Roman capitalists, it would have been very difficult, without any Roman governor or officials on the spot, to control their activities. The Senate therefore shelved the problem for a time by closing down the gold and silver mines, allowing only the iron and copper mines to be worked, presumably by the existing contractors.<sup>4</sup> Such a solution could, however, only be temporary, and the ban was lifted in 158 B.C.<sup>5</sup> We have no information as to how the mines were administered between that date and 148 B.C.

From 167 to 148 B.C., therefore, there was little scope for the activity of Roman *publicani* in Macedonia beyond, perhaps, collecting the rents of farms on the former royal estates. But when, in 148 B.C., owing to the failure of the republican experiment, it became a full province, the situation changed. The tribute continued to be paid as a *stipendium*, direct to the Roman government.<sup>6</sup> But there was now more scope for the *publicani*, whose presence in the province is attested by Cicero.<sup>7</sup> The former royal estates, the forests and the mines were now fully exploited. The estates were confiscated and became *ager publicus* whose revenues, including presumably those from the timber,

<sup>1</sup> See Rostovtzeff, *op. cit.* 758.

<sup>2</sup> Livy, XLV, 29, 4.

<sup>3</sup> Cicero, *Prov. Cons.* 5. Cf. Rostovtzeff, *op. cit.* 988, with Butler and Cary's note on Cicero, *loc. cit.* The *portorium* mentioned in Cicero, *Pis.* 87, was clearly an illegal exaction on the part of Piso.

<sup>4</sup> Livy, XLV, 18, 3; 29, 11; Diod. Sic. XXXI, 8, 6. Cf. Rostovtzeff, *op. cit.* 737; Larsen, *op. cit.* 298 f.

<sup>5</sup> Cassiod. *Chron. Min.* II, 130 (Mommsen).

<sup>6</sup> Cicero, *Pis.* 98.

<sup>7</sup> *Verr.* II, 3, 27; *Prov. Cons.* 13; *Pis.* 98.

were let in Rome by the censors to Roman contractors.<sup>1</sup> As for the mines, it was recognized that there was no satisfactory way of working them except through contractors, as under the kings, and this practice was adopted. Whether the contractors were Roman or Macedonian or both is uncertain, but the probability is that they were Roman, since the contracts would be auctioned in Rome.<sup>2</sup> Within the province of Macedonia were included Epirus and those parts of Illyria which had supported King Gentius in the war against Rome which ended in his defeat and capture in 168 B.C. The arrangements about their revenues appear to have been similar to those in the rest of the province.<sup>3</sup>

Greece, while not actually made part of the province, came under Roman control and was supervised by the governor of Macedonia. During the wars of Rome with Macedonia and Syria, Greece had often been a battle-ground and her peoples had wavered between support of one side or the other and their natural desire to keep their independence. After the defeat of Perseus, Greece was for a time, like Macedonia, allowed to remain independent, though subject to supervision by the emissaries of the Senate. The principal league of Greek states, the Achaean League, helped Rome in her final war in Macedonia against Andriscus, but immediately afterwards it found itself at war with Rome (148-146 B.C.). The actual *casus belli* was the refusal of the League to accept Rome's decision in a dispute with Sparta, but it seems clear that this was only the last of a long series of disputes which caused the Senate to reach the conclusion that the Greeks must be taught a lesson. The Achaean War could have only one result, and the Greeks were soon compelled to sue for peace. Mummius, the consul who brought the war to an end, was joined by the usual senatorial commission which helped him in his arrangements for the future government of Greece.

As a result of the work of this commission, the evidence for which is fragmentary, Greece, while remaining nominally independent, became a protectorate of Rome and was put under the supervision of the governor of Macedonia. Her leagues were dissolved, at least for a time, and Corinth was utterly destroyed.<sup>4</sup> The territory of Corinth became Roman *ager publicus* and was eventually used by

<sup>1</sup> Cicero, *Leg. Ag.* I, 5; II, 50; *Pis.* 84; *De Vir.* III, 73.

<sup>2</sup> See the contradictory statements in Frank, *Econ. Surv.* I, 156 and 256. Cf. Larsen in *id.* IV, 313; 461 f.; P.-W. *s.v. Macedonia*, XIV, 763 f.

<sup>3</sup> Cicero, *Pis.* 96; Livy, XLV, 26, 11 f.; Diod. Sic. XXXI, 8. Cf. C.A.H. VIII, 272 f.

<sup>4</sup> On the motives for this act see below, p. 99 f.

Julius Caesar for a Roman colony.<sup>1</sup> From this land Rome drew rent, but the Senate, pursuing its policy of restricting, as far as possible, the activities of the *publicani*, who would normally have had the contract for collecting the rent, let most of the land to the nearby city of Sicyon, thus making it possible to collect the rent directly.<sup>2</sup> Whether land was also confiscated in other states which had fought against Rome is disputed. There is also a vague statement by Pausanias which has been taken to mean that Rome imposed tribute on Greece or on certain parts of it, but this is extremely improbable. There is no record of any tribute before the imperial period. It seems, therefore, safest to conclude that the rent of the *ager Corinthius* was the only revenue Rome drew from Greece until the time of Sulla. Then, as a result of the help given by some Greek states to Mithridates, further confiscations of land were made in Boeotia and probably also in Euboea and Phocis. Some *portoria* may also have been imposed at that time. Thus the activity of *publicani* in Greece, if permitted at all, was on a very small scale until the beginning of the first century B.C. After that it became more widespread.<sup>3</sup>

Towards her old enemy Carthage Rome's policy was less hesitant than in the case of Macedonia and Greece. When, in 146 B.C., Carthage was finally reduced, the city itself was completely razed and its inhabitants were sold into slavery. The territory formerly ruled by Carthage became the province of Africa.<sup>4</sup>

The majority of the peoples formerly subject to Carthage, either because they had taken no part in the war or because those who had done so were regarded as having fought under duress, were allowed to remain in possession of the territory they had held under Carthaginian rule. They merely paid to Rome taxes similar to those previously paid to Carthage. The revenue thus acquired was a *stipendium*, paid direct to the Roman state.<sup>5</sup> We do not know its amount nor the precise method of collection, but it may be assumed that the *publicani* did not handle it.<sup>6</sup> Though this *ager stipendiarius* naturally formed the bulk of the land of the province, there still remained considerable areas outside that category. In the Agrarian

<sup>1</sup> Cicero, *Leg. Ag.* I, 5; II, 51; Zonaras, IX, 31; *De Vir.* III, 73; Strabo, VIII, 6, 381. Below, p. 194 f.

<sup>2</sup> Strabo, *loc. cit.*

<sup>3</sup> The whole subject of Roman revenues from Greece is obscure and disputed. For a fuller discussion see H. Hill in *C. Ph.* XLI (1946), 35 f.

<sup>4</sup> For the motives for the destruction of Carthage see below, p. 100 f.

<sup>5</sup> Cicero, *Verr.* II, 3, 12; *Balb.* 41; Appian, *Pun.* 135; *Bel. Af.* 20, 4; *Lex Ag. of 111 B.C.* (Bruns, *Font.* 17, 73), 77-80.

<sup>6</sup> See Gsell, *Af. du Nord*, VII, 52 f.; Rostovtzeff, *Kolonat*, 316; *id. G. d. Staatsp.* 416 (referring to the method of collection in the imperial period); *id. in P.-W. s.v. Frumentum*, VII, 155 f.

Law of 111 B.C. we have a fairly complete picture of how Rome had disposed of the land down to that date.<sup>1</sup> Seven cities which had helped Rome against Carthage were made free allies of Rome, retaining full possession of their territory without obligation to pay any taxes to Rome. The territory of Carthage itself, together with that of other cities and individuals who had supported her, became the property of the Roman people. Of this land some was allotted, free of tribute, to Carthaginian deserters; the rest remained *ager publicus* and was disposed of by the three traditional methods of sale, gift, or lease.

The actual site of Carthage was completely levelled by Scipio in 146 B.C. and put under a curse. Nominally it was *ager publicus*, but Rome could draw no revenue from it so long as the curse remained.<sup>2</sup> During his tribunate (123-2 B.C.), C. Gracchus conceived the idea of using some of the public land in Africa for an agrarian colony. His plan, embodied in the *Lex Rubria*, was to settle some 6,000 colonists on allotments there. Some allotments were actually taken up and, though the law was soon annulled by the opponents of Gracchus, the holders of these were allowed to retain their land, which was confirmed as their private property by the law of 111 B.C. and so ceased to be *ager publicus*.<sup>3</sup> Some more of the African land was sold to private individuals, both before and after 111 B.C., but it remained nominally state land and was subject to a rent, probably only a small quit rent.<sup>4</sup> The remainder of the *ager publicus* was let on lease by the censors, some to favoured communities like Utica, some to the royal family of Numidia and the rest to individuals, citizens and non-citizens alike. The rent seems to have taken the form of tithes on the produce of arable land and a tax per head on cattle grazed on the pastures (*scriptura*). It was collected by *publicani* under contract with the censors and the law of 111 B.C. lays down careful regulations for its collection.<sup>5</sup>

Thus the main concern of the *publicani* in Africa was the collection of the rent of the *ager publicus* let on lease. They no doubt also collected the rents of the *ager privatus vectigalisque* and are also men-

<sup>1</sup> Bruns, *Font. I*, 73 f. For full discussions of this law see Mommsen, *Ges. Schrift.* I, 65 f. (=C.I.L. I, 75 f.); E. G. Hardy, *R. Laws and Charters*, 35 f. and, differing slightly, Rostovtzeff, *Kolonat*, 313 f.

<sup>2</sup> *Lex Ag.* 81; Cicero, *Leg. Ag.* I, 5; II, 51; Appian (*Civ.* I, 24) says it was to be used as pasture, but cf. Mommsen, *op. cit.* 132.

<sup>3</sup> *Lex Ag.* 45; 55; 59 f. al. Cf. Haywood in Frank, *Econ. Surv.* IV, 8.

<sup>4</sup> This was the *ager privatus vectigalisque* of *Lex Ag.* 46 f.; 66; 80. Cf. Hardy, *op. cit.* 49 f.; Frank in J.R.S. XVII (1927), 146, n. 3; Rostovtzeff (*Kolonat*, 316) says the rent was probably substantial.

<sup>5</sup> *Lex Ag.* 80-96. Cf. Hardy and Mommsen, *loc. cit.*; Gsell, *op. cit.* VII, 82 f.

tioned in connection with the collection of the purchase price of some of the land which was sold.<sup>1</sup>

Though the conditions laid down by the law of 111 B.C. appear to have remained in force until the imperial period, the first century B.C. saw great changes in the system of land tenure in Africa. Gradually the province outstripped Sicily and Egypt as a source of food supplies to Rome. The intensive cultivation and the bringing into production of fresh land required by this development led to the progressive replacement of small estates by larger units. Rich landowners took over the leases of public land or bought up the small farms until, by the first century A.D., the land of Africa was mainly held by a few rich men or by the Emperors.<sup>2</sup> Eventually the Emperors dispossessed most of the private owners and became themselves the proprietors of the greater part of the land. The *publicani*, too, were absorbed into the imperial system and supervised, where they were allowed to function at all, by imperial procurators.<sup>3</sup>

Meanwhile Rome's empire in North Africa had expanded. The defeat of Jugurtha in 105 B.C. placed his kingdom of Numidia at Rome's mercy, but the Senate contented itself with annexing only a small piece of territory on its extreme eastern boundary, adjoining the province of Africa. On this land were settled a number of Marius' veterans.<sup>4</sup> Thus Marius' victory over Jugurtha brought no new revenue to Rome and no more profits to the *publicani*. Other types of business men, however, reaped a rich harvest by the opening up of Numidia to trade.<sup>5</sup> A further extension of Roman power in North Africa came as a result of the Civil War between Pompey and Caesar. The province of Africa supported Pompey and the Pompeians there were helped by Juba, King of Eastern Numidia. Caesar, after defeating them with the assistance of the kings of Mauretania, added the kingdom of Juba, under the title of Africa Nova, to the province, and handed over the rest of Numidia to Bocchus II, King of Eastern Mauretania. Plutarch<sup>6</sup> tells us that Caesar boasted that the new territory would produce a yearly revenue of 1,200,000 *modii* of grain and 3,000,000 pounds of olive oil, but how this was levied or collected we do not know.<sup>7</sup> Doubtless Rome also confiscated estates

<sup>1</sup> *Lex Ag.* 70 f. Cf. Mommsen, *op. cit.* 137 f. For general references to *publicani* in Africa see Cicero, *Verr.* II, 3, 27; *Ad Fam.* XIII, 6, 2; *Font.* 2; *Vell. Pat.* II, 11, 2.

<sup>2</sup> Pliny, *Nat. Hist.* XVIII, 35.

<sup>3</sup> Rostovtzeff, *Kolonat*, 318 f.; G. d. Staatsp. 374 f.; Haywood, *op. cit.* 28 f.; 88 f.

<sup>4</sup> On this vexed question see Haywood, *op. cit.* 14; C.A.H. IX, 129 f.

<sup>5</sup> Below, p. 79 f.

<sup>6</sup> *Caesar*, 55. Cf. *Bel. Afr.* 97, 3.

<sup>7</sup> See Haywood, *op. cit.* 15; 21 f.; P.-W. s.v. *Frumentum*, VII, 132 f.; Townsend in *C. Ph.* XXXV (1940), 274 f.; Haywood in *id.* XXXVI (1941), 246 f.



formerly owned by Juba and his supporters, as in other provinces, so that there would be more *ager publicus* to be exploited by the *publicani*.<sup>1</sup>

Of other sources of revenue in Africa we know practically nothing. There may have been some *portoria* and some revenue from mines and quarries, but our evidence about them belongs to the imperial period.<sup>2</sup>

With the annexation of Spain, Southern Gaul acquired great importance as a corridor of communications between Italy and the new provinces. Yet for almost a century Rome managed to maintain those communications without having recourse to further annexations. This was due mainly to her ancient friendship with the Greek colony of Massilia which, with occasional help from Rome, kept its ascendancy over the Gallic tribes of the area.<sup>3</sup> It was not until 125 B.C. that the decline of Massiliot power and the rise of a potentially hostile Gallic nationalism compelled Rome to intervene decisively. After a series of campaigns lasting from 125 to 121 B.C., the Romans annexed the whole coastal strip between Cisalpine Gaul and Spain and constructed through it a permanent military road, the *via Domitia*, whose safety it was the main duty of the Roman governor and of the Massiliots to ensure.<sup>4</sup>

With this simple military precaution the senatorial government, then newly restored to power by the crushing of the Gracchan revolutionary movement, would probably have been content. But its opponents, favouring the Gracchan policy of citizen colonies as a solution for the economic problems of the day, pressed for the foundation of such a colony at Narbo, an excellent harbour at the western end of the new province. After a sharp struggle the Senate was overruled, and in 118 B.C. the colony of Narbo Martius was founded and rapidly became a powerful rival to Massilia for the trade of Gaul.<sup>5</sup> From it the province derived its name of Gallia Narbonensis.

For the next sixty years, until Caesar's conquest of the whole of Gaul, Narbonensis was Rome's sole possession there. Except in so far as it was a battle-ground in the wars against the marauding Cimbri and Teutones (113-101 B.C.), we know little of its history until very near the end of this period.<sup>6</sup> In 69 B.C., however, Cicero made a

<sup>1</sup> Gsell, *op. cit.* V, 208 f.

<sup>2</sup> Haywood, *op. cit.* 25; 82 f.; Gsell, *op. cit.* VII, 45; 119.

<sup>3</sup> See Ormerod, *Piracy*, 164 f.; N. J. DeWitt in *T.A.Ph.A.* LXXI (1940), 605 f.

<sup>4</sup> See Jullian, *Hist. de la Gaule*, III, 7 f.; C. H. Benedict in *A.J.P.* LXIII (1942), 38 f.

<sup>5</sup> Cicero, *Brutus*, 160; *Clu.* 140; *Font.* 13; *Vell. Pat.* I, 15, 5; II, 7, 6, etc. For the political background of this foundation see below, p. 114 f.

<sup>6</sup> See Jullian, *loc. cit.*

speech, the *Pro Fonteio*, in defence of an ex-governor of the province who was being prosecuted at the instigation of the Allobroges, from which we get a glimpse of the state of affairs there. A feature of the life of the province was the large number of Roman and Italian business men of all kinds who resided there.<sup>1</sup> Among them were *publicani*,<sup>2</sup> but it is nowhere made clear what their activities were. Nor do we get any clear idea of the revenues derived from the province. We may assume, though the evidence is slight, that tribute was exacted, but it was probably in the form of a *stipendium* not requiring the intervention of *publicani*.<sup>3</sup> They would be concerned with the collection of the minor revenues derived, as in other provinces, from *ager publicus*,<sup>4</sup> *portoria*<sup>5</sup> and possibly mines.<sup>6</sup>

Caesar's conquest of Gaul led, in 51 B.C., to the formal annexation of the whole area north of Narbonensis and west of the Rhine. Its tribute was fixed at 40 millions of sesterces, payable directly without the intervention of *publicani*.<sup>7</sup> The annexation was followed so speedily by the Civil War between Caesar and Pompey and the subsequent period of anarchy in Rome that Gaul did not receive its final organization until Augustus was established as Emperor. The existence in the imperial period of imperial domains in Gaul would support the assumption that some parts of the province were made *ager publicus* in the republican period, but there is no direct evidence that such was the case. Nor do we know what happened to the Gallic mines.<sup>8</sup> There was also, in the imperial period, a customs duty of  $2\frac{1}{2}$  per cent, the *quadragesima Galliarum*, collected by *publicani*, which may have had its origin in some less complete and elaborate system of customs dues established earlier.<sup>9</sup> But if the *publicani* were engaged in collecting these revenues in the few remaining years of the Republic, they have left no trace.

In the second half of the second century B.C. the predominance of the Senate was, for the first time, effectively challenged by the revolutionary movement initiated by the Gracchi. The two brothers

<sup>1</sup> See below, p. 81.

<sup>2</sup> Cicero, *Font.* 12; 46; *Verr.* II, 3, 27.

<sup>3</sup> Negative evidence in Caesar, *Bel. Gal.* I, 45, 2; VII, 77, 14 f., and a possible reference in Cicero, *Font.* 3. Cf. Jullian, *op. cit.* III, 96; Frank, *Econ. Surv.* I, 181; 324; Grenier in *id.* III, 498 f.

<sup>4</sup> Cicero, *Font.* 12 f. Cf. Jullian, *op. cit.* III, 111 f., who seems to misinterpret the sources.

<sup>5</sup> Cicero, *Font.* 17 f. Cf. Grenier, *op. cit.* 430 f.; De Lact, *Portorium*, 79 f.

<sup>6</sup> Grenier, *op. cit.* 455 f.; O. Davies, *R. Mines in Europe*, 77 f.

<sup>7</sup> Sueton. *Div. Iul.* 25, 1; Eutrop. VI, 14; Dio Cass. XL, 43, 3; Vell. Pat. II, 39, 1; Tacit. *Hist.* IV, 74. Cf. Jullian, *op. cit.* III, 570 f.; IV, 29 f.; Rice-Holmes, *Caesar's Conquest of Gaul*, 835 f.; Grenier, *op. cit.* 498 f.

<sup>8</sup> Grenier, *op. cit.* 502 f.; T. Frank in *J.R.S.* XVII (1927), 153.

<sup>9</sup> Jullian, *op. cit.* IV, 305 f.; De Lact, *Portorium*, 76 f.; 125 f.

made it a fundamental feature of their policy to reassert the sovereignty of the Roman people and its right to decide, in its Assembly and under the presidency of its tribunes, all important matters of public policy. Among the functions which had previously been exercised by the Senate and were now, at least temporarily, taken out of its hands, was the control of finance and the consequent right to assess and organize the revenues of any new territories acquired by Rome. The first move in this direction was made by Ti. Gracchus when, as tribune in 133 B.C., he passed his agrarian law for the redistribution of public land in Italy. The expense of carrying out this scheme was enormous and it also involved a considerable loss of state revenue, so that it is not surprising that the Senate resisted it fiercely or that the land commission soon found itself beset with financial difficulties.

It was at this moment that Attalus, King of Pergamum, died, leaving his kingdom and his personal fortune to Rome.<sup>1</sup> Gracchus at once took advantage of the windfall and proposed to use the royal treasure to help finance his agrarian scheme. He is said to have passed a law to this effect, and there is evidence that some of Attalus' possessions were auctioned in Rome.<sup>2</sup> Tiberius may also have intended to encroach further on the Senate's prerogatives by carrying out the organization of the new province by a vote of the people, but he was murdered before he could take any such action and the Senate recovered its financial control for a time.<sup>3</sup>

For the next three years Asia was involved in a civil war brought about by the claims of a pretender, Aristonicus, to the throne of Attalus, and Rome had to suppress this disturbance before she could enter into her inheritance. Finally, in 129 B.C., the usual senatorial commission was sent out to join M'. Aquilius, the Roman general on the spot, and organize the new province. Various neighbouring rulers who had helped Rome to crush Aristonicus were rewarded with gifts of outlying portions of Attalus' kingdom and, in accordance with the terms of the late king's will, the city of Pergamum itself with its territory, and possibly some other cities, were granted independence.<sup>4</sup> The remainder of the kingdom became the province of Asia.

<sup>1</sup> See below, p. 103 f.

<sup>2</sup> Livy, *Epit.* 58; Plut. *Ti. Grac.* 14, 1; Pliny, *Nat. Hist.* XXXIII, 148 f.; *De Vir.* III. 64, 5; Orosius, V, 8, 4; Justinus, XXXVI, 4, 8 f.; Florus, II, 3 (III, 15). For criticism of this tradition see Carcopino, *Autour des Gracques*, 36 f., on which cf. *J.R.S.* XVIII (1928), 228 f.

<sup>3</sup> Plutarch, *loc. cit.* Cf. Münzer, *Adelspart.* 259 f.

<sup>4</sup> For details see Broughton in Frank, *Econ. Surv.* IV, 508 f.; A. H. M. Jones, *Cities of the E. R. Prov.* 57 f.; P. Foucart in *Mém. Acad. Insc.* XXXVII (1904), 297 f.

Of the arrangements made by the senatorial commission we know practically nothing, but it is fairly safe to assume that, following the usual senatorial practice, it made as few changes as possible in the system which had existed under the Attalid kings.<sup>1</sup> The kings had personally owned large estates, factories and probably also mines, quarries and other natural resources. These, along with the royal treasures, would, by the will of Attalus, become the property of the Roman people, and it appears, from the presence of *publicani* or their agents in Asia about 129 B.C., that the collection of the profits from them was, as usual, carried out under contracts let by the censors in Rome.<sup>2</sup> In addition, the royal treasury had been fed by taxes on land, tribute from the cities and various customs dues. M. Antonius, addressing representatives of the peoples of Asia after the battle of Philippi (42 B.C.), is said to have declared that the Romans remitted these revenues until the time of C. Gracchus, but this evidence is not very convincing.<sup>3</sup> It is more likely that they retained the Attalid system of administering the taxes and drew the proceeds themselves.<sup>4</sup>

The senatorial settlement, whatever form it took, lasted only a few years. During his period of office as tribune (123-2 B.C.), C. Gracchus revived his brother's claim to the right of the Assembly to decide the fate of the province of Asia and passed a law regulating its taxation. Under this law the principal tax was to be a tithe on all agricultural produce, to be collected under contracts let by the censors in Rome.<sup>5</sup> In addition, there were the usual *portoria* and *scriptura*. As in other provinces, the collection of *scriptura*, *portoria* and the rents from Roman public property was in the hands of *publicani*.<sup>6</sup> But in the case of Asia, by laying it down that the tithe contracts also should be let in Rome, C. Gracchus handed these, too, over to the *publicani*, who thus controlled every source of revenue in the province. These were by far the largest contracts yet handled by the *publicani* and their inevitable result was a vast increase in the size, wealth and influence

<sup>1</sup> For the Attalid system see Rostovtzeff, *Hell. World*, Index s.v.; C.A.H. VIII, Ch. 19; Broughton, *op. cit.* 627 f.

<sup>2</sup> Rostovtzeff, *Hell. World*, 811 f. For the problem of the extent of Roman *ager publicus* in Asia see *id. ib.* 814 f. Cf. Marx on Lucilius, XXVI, 671; Cicero, *Leg. Ag.* II, 50.

<sup>3</sup> Appian, *Civ.* V, 4.

<sup>4</sup> So Rostovtzeff, *loc. cit.*; Broughton, *op. cit.* 509; 566 f. Cf. A. H. M. Jones, *loc. cit.*

<sup>5</sup> Cicero, *Verr.* II, 3, 12; *Ad Att.* I, 17, 9; V, 13, 1; *Flacc.* 19; *Leg. Manil.* 14 f.; *Scol. Bob.* p. 259 (Or.); Appian, *Civ.* V, 4; Fronto, *Ad Ver.* II, 1, 13; *S.C. de Asclep. ap. Bruns, Font.* I<sup>7</sup>, 176 f., 22-3. That there were some exceptions from the tithe is shown by Appian, *Civ.* V, 6, and *Lex Agrar.* of 111 B.C., 82, but details are lacking. Cf. Broughton, *op. cit.* 706 f. For the existence of a system of tithes under the Attalids see Rostovtzeff, *op. cit.* Index s.v. *δεκάτη*.

<sup>6</sup> Cicero, *Leg. Manil.* 14 f.; *Flacc.* 19; *Leg. Ag.* II, 80; *Ad Att.* II, 16, 4; XI, 10, 1. *Ad Fam.* XIII, 65, 1; Lucilius, *loc. cit.*; Sueton. *Vesp.* 1, 2; *C.I.L.* III, 447; 7149; *B.C.H.* X (1886), 267; XXXI (1907), 387 f.; *I. von Priene*, 11; 111.

of the tax-farming companies. It was this increase in their financial opportunities, combined with other measures taken by C. Gracchus, which completed the formation of a Middle Class with interests different from and often opposed to those of the Senate and so made that class a power to be reckoned with in politics.<sup>1</sup>

For more than thirty years thereafter, until the first war with Mithridates in 88 B.C., Asia was the happy hunting ground for business men of all kinds. The agents of the *publicani*, besides collecting the revenues, had to dispose of the produce of the tithes and thus acted as merchants as well. They were soon joined by other traders of all kinds and by moneylenders, bankers etc.<sup>2</sup> Apart from records of a few minor disputes as to the exact scope of the revenue contracts<sup>3</sup> and one *cause célèbre*, that of P. Rutilius Rufus, in which the *publicani* were involved,<sup>4</sup> our information about this period is scanty. It is certain, however, that the province was being vigorously exploited, for when it again emerges into the full light of history with Mithridates' invasion of 88 B.C., we find not less than 80,000 Romans and Italians massacred there on orders from Mithridates.<sup>5</sup> The fact that many of these murders were committed by the inhabitants of Asia themselves shows the hatred which they felt for their exploiters.<sup>6</sup> In addition to this immense loss of life, the financial effects of Mithridates' attack were catastrophic. Cicero tells us that it caused a collapse of credit in Rome itself, a fact which underlines the great importance of the Asiatic revenues.<sup>7</sup>

The task of recovering the province and taking vengeance on Mithridates was entrusted to Sulla, who left Rome for the East after his *coup d'état* of 88 B.C. without having secured a firm enough hold on the political machinery at home. The result was that, although he defeated Mithridates and reasserted Roman sovereignty in Asia, his settlement was hasty and incomplete when he finally left the province in 83 B.C. He punished the Asiatics by insisting that, in addition to an indemnity, they should pay the taxes for the five years that the war had lasted in a single payment and, to enable them to do this, he divided the province into forty-four districts, probably based on the principal cities. These districts he made responsible, under the

<sup>1</sup> For an attempted estimate of the revenues of Asia see Broughton, *op. cit.* 542 f.; 562 f. For the political motives and consequences of C. Gracchus' measures see below, p. 107 f.

<sup>2</sup> See below, p. 79 f.

<sup>3</sup> Broughton, *op. cit.* 535 f.; A. Passerini in *Athenaeum* XV (1937), 252 f.

<sup>4</sup> Below, p. 130 f.

<sup>5</sup> Memnon, *Frag.* 31 (=F.H.G. III, 541-2); Val. Max. IX, 2, Ext. 3; Appian, *Mith.* 22 f.; 54; 58; 62; Plut. *Sulla*, 24, etc. Below, p. 141.

<sup>6</sup> See especially Chapot, *Asie*, 25 f.

<sup>7</sup> Cicero, *Leg. Manil.* 19.

supervision of his own officers, for the collection and delivery of their allotted quota of the total sum demanded.<sup>1</sup> The burden thus imposed was so great that the whole province fell heavily into debt, having to mortgage public property of every kind in order to raise the money. Even so, it was not until ten years later, when Lucullus took drastic steps to restore the prosperity of Asia, that the province began slowly to recover.<sup>2</sup>

The Mithridatic War and the special arrangements made by Sulla for the collection of the taxes he had demanded had, of course, put out of action the system of tax-collection instituted by C. Gracchus. Even had their contracts still held good, the *publicani* had suffered so severely that it is unlikely that they could have resumed operations in Asia immediately the province was recovered. What in fact happened to the contracts we do not know. There is some evidence that, in the absence of censors, some minor contracts were let by the consuls of 80 B.C., one of whom was Sulla himself,<sup>3</sup> but the probability is that Sulla, whose hostility to the *publicani* and the whole Middle Class is well known, kept them out of Asia as long as he could by continuing the collection of the revenues on the system he had established in 84 B.C. His death, however, was the signal for a revival of all those elements he had tried to crush and by 75 B.C., when the consuls, again performing the duties of the non-existent censorship, proceeded to the letting of state contracts, the *publicani* were strong enough to get their field of operations in Sicily extended.<sup>4</sup> That they also recovered some at least of their Asiatic contracts is shown by their presence in Asia Minor in 74 B.C.<sup>5</sup> By 71 B.C., when Lucullus undertook to settle the affairs of Asia, the *publicani* were once again taking a large share in the exploitation of the province and were powerful enough, some years later, to break Lucullus for his attempts to protect the Asiatics against them.<sup>6</sup>

Cicero's speech for the Manilian law of 66 B.C. shows the publicans in full control of all the Asiatic revenues as they had been before Sulla.<sup>7</sup> Some modern scholars have held, on very slight evidence,

<sup>1</sup> Cassiod. *Chron.* 670 (84 B.C.); Appian, *Mith.* 62; Cicero, *Ad Quint.* I, 1, 33. Cf. Plut. *Sulla*, 25; Lucull. 4; Cicero, *Flacc.* 32; *Verr.* II, 1, 89; Chapot, *Asie*, 36 f.; 89 f.; Reinach, *Mith. Eup.* 209 f.; P.-W. s.v. *Aera*, I, 638. Below, p. 146.

<sup>2</sup> See below, n. 6.

<sup>3</sup> Cicero, *Verr.* II, 1, 130.

<sup>4</sup> Cicero, *Verr.* II, 3, 18. See above, p. 55.

<sup>5</sup> Below, p. 152 f.; Memnon, *Frag.* 38 (=F.H.G. III, 545); Plut. *Sert.* 24. Cf. Appian, *Mith.* 71.

<sup>6</sup> Plut. *Lucull.* 7; 20; 33 f.; Appian, *Mith.* 83; Cicero, *Acad.* II, 1, 3. See below, p. 157. For a different view see Rice-Holmes, *Roman Repub.* I, 395-6.

<sup>7</sup> Cicero, *Leg. Manil.* 14 f. *al.*

that the method of collecting the tithes after 70 B.C. differed from that established by C. Gracchus. They believe that the tithes were no longer collected directly by the agents of the *publicani* but by the local authorities of Sulla's forty-four districts under contract with the *publicani*, who thus acted merely as intermediaries between the local authorities and Rome.<sup>1</sup> It is more likely that the Gracchan system was completely restored in either 75 or 70 B.C.<sup>2</sup>

Meanwhile Asia Minor, incompletely pacified by Sulla, had once more become the scene of a Mithridatic War. The King of Pontus, having rapidly recovered from his previous defeat, saw in Rome his most powerful rival for the control of the whole of Asia Minor. The Romans were equally suspicious of the intentions of Mithridates and, in order to protect their province from another invasion, intrigued with various neighbouring potentates. Of these the most important was Nicomedes, King of Bithynia, who became almost a vassal of Rome. In 74 B.C. he died and followed the example of Attalus by bequeathing his kingdom to Rome. At once the will was challenged and Mithridates invaded and occupied Bithynia. There followed a decade of war in which Mithridates, though severely mauled by Lucullus, was not finally crushed until Pompey established Roman domination over the whole of Asia Minor in 63 B.C.

After his victory, Pompey carried out a complete reorganization of the Near East. The province of Bithynia was increased by the incorporation of part of Pontus, the province of Cilicia was enlarged and reorganized and a new province of Syria was created. The rest of Asia Minor became a series of client kingdoms. Naturally this meant a great increase in revenues for the Roman treasury. Pompey is said to have boasted that he more than doubled its income and henceforth Asia Minor was the most important source of Roman revenue.<sup>3</sup> Unfortunately, the details of Pompey's arrangements about taxation are far from clear, and it is therefore not possible to say with any confidence what proportion of the new revenues was handled by the *publicani*.

The province of Asia, which had escaped the worst effects of the recent wars, remained, during the last years of the Republic, both the principal investment of the *publicani* and the centre of much political

<sup>1</sup> For full discussions of this disputed point see Rostovtzeff, *Hell. World*, 944 f.; 965 f.; 977 f.; Broughton, *op. cit.* 516 f.; 537 f.; C.A.H. IX, 260 (with references to earlier treatments).

<sup>2</sup> See especially Scol. Bob. p. 259 (Or.).

<sup>3</sup> Plut. *Pomp.* 45, 3; Zonaras, X, 5. Cf. Frank, *Econ. Surv.* I, 322 f.—giving a somewhat different interpretation. Cicero, *Ad Fam.* XV, 1, 5.

intrigue.<sup>1</sup> Many demands for cash and supplies were made on it during the civil wars and it became so impoverished that, in 47 B.C., Julius Caesar had to reorganize its finances. He did away with the tithe system altogether, substituting a fixed *stipendium* which he made equivalent to only two-thirds of the amount previously yielded by the tithes.<sup>2</sup> By so doing he deprived the publicans of control of the principal revenues of Asia, thus anticipating the general policy of Augustus, which was to remove from their control all but the minor provincial revenues.

Of the organization and revenues of the province of Bithynia before Pompey's settlement we know practically nothing, and we have only slight knowledge of them after it. Mithridates' invasion followed so rapidly on the creation of the province that the Romans can have had no time to make proper arrangements for its government. Even in 63 B.C. its status does not seem to have been properly defined.<sup>3</sup> It appears that the personal estates of Nicomedes, like those of Attalus, were taken over as *ager publicus* and were exploited, as usual, by *publicani* who were active in Bithynia even before Pompey's victory was complete.<sup>4</sup> When the portion of Pontus was added by Pompey the same thing probably happened to the estates formerly owned by Mithridates.<sup>5</sup> There is also mention of the usual *scriptura*, administered by *publicani*,<sup>6</sup> and there were presumably *portoria* as well.<sup>7</sup> But the form of the main tax or tribute of Bithynia cannot be determined with certainty. For administrative purposes Pompey divided the two sections of the province into districts, each centring in a city, some of which were already in existence, the others being founded by Pompey himself.<sup>8</sup> It is natural to assume that these administrative districts were used as a basis for the collection of

<sup>1</sup> For *publicani* in Asia after Sulla see, in addition to the passages referred to above, Cicero, *Verr.* II, 3, 27; *Flacc.* 37 f.; 90 f.; *Ad Att.* I, 17, 9; II, 16, 4; V, 13, 1; *Ad Quint.* I, 1, 6 f.; 32 f.; *Ad Fam.* V, 20, 9; *Scour.* 35; *Scol. Bob.* p. 261 (Orelli); Caesar, *B. Civ.* III, 31 f.; Val. Max. VI, 9, 7; *Lex Ant. de Terness.* (ap. Dessau, *I.L.S.* 38), II, 35. For the view that Asia may have recovered some of its prosperity in this period see Rostovtzeff, *Hell. World*, 953 f. For political intrigue see below, p. 169 f.

<sup>2</sup> Dio Cass. XLII, 6, 3; *Plut. Caes.* 48; Appian, *Civ.* II, 92; V, 4. Cf. IV, 75; Chapot, *Asie*, 329 f.; Rostovtzeff, *Hell. World*, 994 f. Below, p. 190 f.

<sup>3</sup> Vell. Pat. II, 42; Cicero, *Leg. Ag.* II, 40. Cf. Rostovtzeff, *Hell. World*, 978.

<sup>4</sup> Cicero, *Leg. Ag.* II, 50; Memnon, *Frag.* 38 (=F.H.G. III, 545); Strabo XII, 3, 562. Cf. A. H. M. Jones, *Cities of E. R. Prov.* 157 f.

<sup>5</sup> Cicero, *Leg. Ag.* II, 51. The point is disputed—see Rostovtzeff, *op. cit.* 978 f.; 1648 f.; Jones, *op. cit.* 160 f.; Broughton, *op. cit.* 533; W. G. Fletcher in *T.A.Ph.A.* LXX (1939), 17 f.

<sup>6</sup> Cicero, *Ad Fam.* XIII, 65—wrongly referred to Asia in P.-W. III, 532.

<sup>7</sup> P.-W. III, 533; De Lact, *Portorium*, 85. For general references to *publicani* in Bithynia see *Bel. Alex.* 41; 70; Cicero, *Ad Fam.* XIII, 9. The latter passage does not prove, as Trapenard (*L'Ager Script.* 51) suggests, that a single *societas* had charge of all the revenues of Bithynia.

<sup>8</sup> For details of this organization see especially Jones, *op. cit.* 157 f.



tribute, though there is no evidence for this. But whether the tribute took the form of tithes as in Asia, or was a fixed *stipendium*, and whether or not the *publicani* had anything to do with its collection is unknown.<sup>1</sup>

When, with the annexation of the province of Asia, Rome acquired a stake in the affairs of Asia Minor, its southern coastal areas and the sea between it and Cyprus had long been the haunt of pirates. At first Rome seems to have left the task of dealing with them to Rhodes and other maritime states of the region, but she was finally compelled to take action herself. At the end of the second century B.C. she established the province of Cilicia, which was not so much a territorial possession as a base of operations against the pirates. In fact, the word *provincia* as applied to this area appears to have had its original meaning of a 'sphere of operations', and the province to have been little more than a military and naval command held successively by magistrates whose main task was the suppression of piracy. There is, at any rate, no evidence that the territory nominally under their control made any contribution to the revenues of Rome. It was not until 78-74 B.C., when this command was held by P. Servilius Vatia, that any sustained attempt was made to conquer southern Asia Minor. Even so, the province of Cilicia did not reach its full extent nor receive its final organization until Pompey reconstituted it after his victories over the pirates and Mithridates.<sup>2</sup> Pompey appears to have divided the province into a number of administrative districts based upon existing or projected cities, as in Bithynia. When, in 58 B.C., the Romans annexed Cyprus, the island was included in Cilicia and formed one of its administrative districts until 48 B.C., when it was given back to Egypt, only to be re-annexed as a separate province in 31 B.C.<sup>3</sup>

Our knowledge of Cilicia in the republican period comes almost entirely from the series of letters which Cicero wrote when he was its most unwilling governor in 51-50 B.C.<sup>4</sup> Unfortunately, the picture we get there of its organization and revenues is by no means complete. Certain districts conquered by Servilius became *ager publicus*,

<sup>1</sup> See Rostovtzeff, *Hell. World*, 955; 966 f.; Broughton, *op. cit.* 537 f.; 565; Frank, *Econ. Surv.* I, 324; 344. The evidence they quote refers to Cilicia, Asia or Syria, and not to Bithynia. Cf. P.-W. III, 530 f.; Rice-Holmes, *R. Repub.* I, 210.

<sup>2</sup> For the early history of the province see A. H. M. Jones, *op. cit.* 132 f.; 202 f.; Ormerod, *Piracy*; Rostovtzeff, *Hell. World*, 783 f.; 975 f.; Broughton, *op. cit.* 522 f. For its later history see R. Syme in *Anatolian Studies*, 299 f.

<sup>3</sup> Cicero, *Ad Fam.* I, 7, 4; XIII, 48; XV, 4, 15; *Ad Att.* V, 21, 6 f.; VI, 2, 7 f. On Cyprus see Jones, *op. cit.* 370 f.; P.-W. XII, 101 f.; V. Chapot in *Mél. Cagnat*, 59 f.

<sup>4</sup> See Tyrell and Purser, *Corresp. of Cic.* III, Introd. p. xx f.

which would, as usual, be administered by *publicani*.<sup>1</sup> There was also a *scriptura* and some *portoria*, collected on the basis of the administrative areas (*dioceses*) by publican corporations with their headquarters in Rome.<sup>2</sup> The mines of Cyprus appear to have been the property of the Roman government and may well have been leased to *publicani* also.<sup>3</sup>

But as to the form and method of collection of the main tribute of Cilicia, we can only conjecture. Modern scholars usually hold that it was a system of tithes collected by the various local authorities under agreements (*pactiones*) with *publicani* who held contracts from the Roman censors.<sup>4</sup> It must be pointed out, however, that this view rests on the scantiest of evidence, since the agreements mentioned by Cicero are nowhere said to relate to tithes, and it is not even certain that the local authorities, rather than individual taxpayers, were parties to them.<sup>5</sup> It is quite possible that Cilicia paid a fixed *stipendium* with which the tax-farmers had nothing to do.

Whatever be the truth of this, Cicero makes it quite clear that the *publicani* played a most important and sinister part in the life of the province. As governor, he had to try to reconcile the interests of the *publicani* with those of the provincials and he constantly complains of the difficulty of the task, a difficulty greatly increased by his own anxiety to have the support of the former for his *concordia ordinum*.<sup>6</sup> As early as 54 B.C. we find him urging the then governor, P. Cornelius Lentulus Spinther, to do all he can to keep on friendly terms with the publicans.<sup>7</sup> When he himself reached the province in 51 B.C., he found it impoverished and heavily in debt, and for this he blamed his predecessor, Appius Claudius, who had apparently been too complaisant towards the *publicani*.<sup>8</sup> Cicero, forewarned of the troubles that lay ahead, had already laid down the policy he intended to pursue in the edict which he issued before leaving Rome, but even so, when he reached Asia Minor, he was persuaded to make some alterations in his edict to please the publicans.<sup>9</sup> His main anxiety concerned the

<sup>1</sup> Cicero, *Leg. Ag.* I, 5; II, 50; Ps.-Ascon. p. 173 (Orelli). For details see Broughton, *op. cit.* 522 f.

<sup>2</sup> Cicero, *Ad Att.* V, 15, 3.

<sup>3</sup> Josephus, *Ant.* XVI, 4, 5, 128; Caesar, *B. Civ.* III, 103, 1. Cf. Broughton, *op. cit.* 621 f.; 655.

<sup>4</sup> For the fullest exposition of this view see Rostovtzeff, *Hell. World*, 962 f.; 975 f. Cf. Broughton, *op. cit.* 533 f.; Frank, *R. Imp.* 323. For a somewhat different version see Frank, *Econ. Surv.* I, 344.

<sup>5</sup> Cicero, *Ad Fam.* XIII, 65, relates to the *scriptura* of Bithynia, and the debts of local authorities to *publicani* mentioned in, e.g. Cicero, *Ad Att.* VI, 2, 4-5, and 3, 3, may well be similar.

<sup>6</sup> Below, p. 162 f.

<sup>7</sup> *Ad Fam.* I, 9, 26. Cf. XIII, 48.

<sup>8</sup> *Ad Att.* V, 16; 17; 21; VI, 1-3; *Ad Fam.* XV, 4, etc.

<sup>9</sup> *Ad Att.* VI, 1, 15; *Ad Fam.* III, 8, 3 f. Cf. *Ad Att.* V, 3, 2; 4, 3.

agreements already mentioned. He was delighted when he found that they were already completed when he reached his province, and he regarded their successful completion as second only in importance to the threat of a Parthian invasion.<sup>1</sup> These agreements must have fixed the amount of taxes due to the *publicani* (though, as we have seen, it is not clear what taxes were involved) and the conditions of payment, one of which appears to have been that taxes not paid before a certain date should be treated as loans on which interest was payable. A clause in the agreements fixed the rate of interest—a very high one.<sup>2</sup> The effect of such an arrangement would obviously be cumulative, arrears and interest piling up until it became impossible for the provincials to pay off the original taxes. Thus Cicero found that some communities owed their taxes for the whole previous *lustrum*—i.e. for the last ten years or so—and were being driven to desperate expedients to raise money to pay the interest. He claims to have 'saved' the province by the arrangements he made to deal with this problem of debt.<sup>3</sup> In his edict he had fixed the official rate of interest at 12 per cent, and he insisted that the Cilicians be given time to pay off their debts at that rate before the higher rates of the *pactiones* came into operation. He then cut down his own demands upon the province to the minimum and recovered for the local authorities large sums which had been embezzled by their own officials, thus enabling the debts to be paid and pleasing, so he says, both Cilicians and tax-farmers.<sup>4</sup>

The very exuberance with which Cicero relates the story of his achievements shows that his success was greater than he had dared to hope and that a compromise of this kind must have been rarely reached. The strength of the organisation set up by the tax-farmers in Asia Minor is well illustrated by the fact that Cicero, even while trying to curb their activities, was making use of facilities they had provided for themselves. Thus his letters were frequently carried by their couriers,<sup>5</sup> and he deposited money in the bank they had established at Ephesus.<sup>6</sup>

Syria, the ancient kingdom of the Seleucids, was annexed by Pompey in 64 B.C.<sup>7</sup> Before becoming a Roman province, the area was in almost complete chaos, a conglomerate of independent cities

<sup>1</sup> *Ad Att.* V, 13, 1; 14, 1.

<sup>2</sup> *Ad Att.* VI, 1, 16.

<sup>3</sup> *Ad Att.* VI, 2, 4 f.; 3, 3; *Ad Fam.* II, 12, 3; XV, 4, 2.

<sup>4</sup> *Ad Att.* V, 16, 3; 17, 2; 21, 5 f.; VI, 1, 16 and 21.

<sup>5</sup> *Ad Att.* V, 15, 3; 16, 1; 21, 4; *Ad Fam.* VIII, 7, 1.

<sup>6</sup> *Ad Fam.* V, 20, 9; *Ad Att.* XI, 2, 3.

<sup>7</sup> For a full account of the extent and history of the province see especially Jones, *op. cit.* 227 f.

and small principalities with no effective central government. Pompey imposed tribute on it and began the extremely difficult task of organizing its government.<sup>1</sup> His method was the same as that he had adopted in Bithynia and Cilicia—to retain as many as possible of the existing local governments, whether of cities or under native rulers, and, where no stable system of government existed, to create local authorities to work under the Roman governor's supervision. These were allowed a considerable measure of autonomy but were, with possibly a few exceptions, all subject to tribute. The exact form of the tribute is again uncertain. It may have been a tithe or a fixed amount of cash, or even a combination of the two.<sup>2</sup>

Obviously it was impossible for Pompey, in the short time he stayed in Syria, to do more than lay down the general lines on which he intended the organization to develop. Nor had the province any long period of peace during which its governors could complete the task. It was constantly torn by internal troubles, especially among the Jews, plundered by pirates who had survived Pompey's operations against them and threatened with a Parthian invasion, so that its successive governors could do little more than provide for its defence and keep the peace within its borders. It had not emerged from this chaotic condition when it was caught up in the Roman Civil Wars of 49–31 B.C., during which, like the other eastern provinces, it suffered severely from the exactions of the various Roman leaders who used it as a base of operations.<sup>3</sup> Thus it is highly improbable that Syria had any uniform organization or system of taxation until it was properly surveyed and its resources assessed under Augustus.<sup>4</sup>

The information which we do possess about the province in the republican period, scanty and unsatisfactory though it is, reveals that, as in Asia and Cilicia, the *publicani* were very active there. There is evidence of some *ager publicus*<sup>5</sup> and of *portoria*,<sup>6</sup> both doubtless administered by *publicani*. As in Cilicia, one of the main causes of trouble between the tax-farmers and the native populations was the *pactiones*.<sup>7</sup>

<sup>1</sup> Vell. Pat. II, 37, 5; Cicero, *Ad Att.* II, 16, 2.

<sup>2</sup> See Rostovtzeff, *Hell. World*, 980 f.; 999 f.; E. S. Bouchier, *Syria as a Roman Province*, 22 f.; Heichelheim in Frank, *Econ. Surv.* IV, 231 f.

<sup>3</sup> See Rostovtzeff, *Hell. World*, Index s.v. Syria.

<sup>4</sup> In spite of Heichelheim, *op. cit.* 160, n. 14, Appian, *Syr.* 50, must be taken as referring to imperial revenues. Cf. Tacit. *Ann.* II, 42, 7.

<sup>5</sup> Josephus, *Bel.* VII, 6, 6, 216 f. Mines and quarries may also have been controlled by publicans—cf. Heichelheim, *op. cit.* 156 f.

<sup>6</sup> Josephus, *Ant.* XIV, 10, 6, 205 f. The reference in Cicero, *Prov. Cons.* 10, to *custodiae publicanorum* is probably, as Rostovtzeff (*op. cit.* 982) suggests, to customs officers. Cf. Cicero, *Leg. Manil.* 16.

<sup>7</sup> Cicero, *Prov. Cons.* 10 f.; *Ad Att.* VI, 1, 15. Cf. Rostovtzeff, *op. cit.* 981 f.

We are not told to what these agreements related. They may have been about the minor taxes mentioned above or about the tribute imposed by Pompey, or about debts incurred by local authorities in their attempts to meet the demands of the Romans. The consequences to any governor who attempted to regulate the *pactiones* are well illustrated by the fate of A. Gabinius, who governed Syria from 57 to 55 B.C. Formerly a lieutenant of Pompey's during his eastern campaigns, Gabinius seems to have tried to continue the policy of granting the maximum of freedom to local authorities and to protect the natives from exploitation.<sup>1</sup> He started his governorship on the friendliest of terms with the *publicani*, but he quickly aroused their hatred by his policy. Cicero, who had personal reasons for hating Gabinius as one of those responsible for his exile, voiced the protests of the tax-farmers in two of his speeches and described, with evident relish, in his letters how Gabinius was assailed by them on his return to Rome and finally driven into exile.<sup>2</sup> When M. Bibulus took over the governorship in 51 B.C., he found it necessary to make special provision in his edict against the fraudulent practices of the publicans. He inserted a special clause whose wording was so blunt that Atticus took exception to it, describing it as 'an unnecessarily severe condemnation of the (equestrian) order'.<sup>3</sup> Judaea formed, during the republican period, an important section of the province of Syria. Under Pompey's settlement it lost its monarchy and much territory and was subjected, like the other parts of the province, to tribute.<sup>4</sup> It continued to be very turbulent and Gabinius found it necessary to subdivide it into five districts, presumably for convenience in administration and taxation.<sup>5</sup> Caesar, in his dictatorship, reorganized its taxation, in some way curtailing the activities of the *publicani* there, though the details are not recoverable.<sup>6</sup> Probably a similar curtailment was made in the rest of Syria, as it was in Asia, but the publicans continued to be active in the province.<sup>7</sup>

Like Asia and Bithynia, Cyrenaica came to Rome as a legacy from its king, Ptolemy Apion, who died in 96 B.C. The Senate, apparently satisfied that the Greek cities there could govern themselves, declared

<sup>1</sup> Josephus, *Ant.* XIV, 5, 3, 87 f. (= *Bel.* I, 8, 4, 165 f.); XIV, 5, 4, 91 (= *Bel.* I, 8, 5, 170); Cicero, *Prov. Cons.* 9 f.

<sup>2</sup> *Ad Quint.* II, 11, 2; III, 2. Cf. III, 1; 3; 4; 7; 9; *Ad Att.* IV, 18; 19; Dio Cass. XXXIX, 55 f. Below, p. 179 f.

<sup>3</sup> Cicero, *Ad Att.* VI, 1, 15. Below, p. 184 f.

<sup>4</sup> Josephus, *Ant.* XIV, 4, 4, 74 (= *Bel.* I, 7, 6, 154).

<sup>5</sup> Josephus, *Ant.* XIV, 5, 4, 91 (= *Bel.* I, 8, 5, 170). Cf. Dio Cass. XXXIX, 59, 2.

<sup>6</sup> Josephus, *Ant.* XIV, 10, 5, 200 f.—on which cf. Rostovtzeff, *Hell. World*, 999 f. and Heichelheim, *op. cit.* 232 f. For a different view see Rice-Holmes, *Roman Repub.* III, 507 f.

<sup>7</sup> See, e.g., Caesar, *B. Civ.* III, 31, 2; 102, and the references to publicans in the New Testament.

them free and contented itself with taking over the former royal property, whose revenues were diverted to the Roman treasury. It soon became clear, however, that the Senate had misjudged the situation, and in 74 B.C. the whole area was formally annexed and became the province of Cyrenaica. In 66 B.C., as a result of the campaigns of Pompey and Metellus against the pirates, the island of Crete was also annexed and was united with Cyrenaica to form a single province.<sup>1</sup>

Of the revenues of this province very little is known. The former royal land became *ager publicus* and there were state-owned pastures administered by *publicani*.<sup>2</sup> Cyrenaica was famous for its silphium, a plant much prized for its medicinal properties. The Elder Pliny tells us that it was brought to Rome as early as 93 B.C. and that there was a considerable quantity of it in the Roman treasury in 48 B.C.<sup>3</sup> From this it has been argued that Cyrenaica paid its tribute in silphium,<sup>4</sup> but it is unlikely that the province paid any tribute until the formal annexation of 74 B.C. The treasury's stock of silphium was probably part of the price paid by the publicans for their contracts. Pliny also informs us that the latter soon exhausted the available supplies of silphium, finding it more profitable to let the land for grazing. We have no evidence of what form the main tribute took, nor do we know what were the *vectigalia* of Crete.<sup>5</sup>

The above brief survey of the Roman provincial revenues has shown that in every part of the Roman Empire there were agents of the tax-farming companies, engaged mainly in collecting the minor revenues, but sometimes, as in Asia, controlling the main revenues as well. Everywhere they pursued their task efficiently, and often ruthlessly, and so created many difficulties for the governors sent out to the provinces by the Senate. The relations between provincial governors and *publicani* thus had a vitally important effect upon the general relations between the senatorial and the middle classes.<sup>6</sup>

Alongside the *publicani* in all the provinces, and clearly distinguished

<sup>1</sup> For the evidence and subsequent history see Jones, *Cities of the E.R. Prov.* 360 f.; P.-W. XII, 164 f.; Ormerod, *Piracy*, 225 f.; L. Homo in *Rev. des Deux Mondes*, XIX (1914), 389 f.

<sup>2</sup> Cicero, *Leg. Ag.* II, 51; Tacit. *Ann.* XIV, 18; Hyginus *ap. Corp. Agrimens. Rom.* (ed. Thulin) I, p. 85 f.; Pliny, *Nat. Hist.* XIX, 39. Cf. a general reference to *publicani* in Cyrenaica in Cicero, *Planc.* 63.

<sup>3</sup> *Nat. Hist.* XIX, 38 f. For an earlier reference to the silphium trade with Capua see Plautus, *Rudens*, 630 f.

<sup>4</sup> Marquardt, *Staatsverw.* I, 300; II, 186. For an attempt to estimate the tribute see Frank, *Econ. Surv.* I, 229; 324.

<sup>5</sup> Cicero, *Phil.* II, 97, may be a reference to *portoria*. There were also quarries owned by the Roman State. *Digest*, XXXIX, 4, 15.

<sup>6</sup> See below, Ch. IV.

from them,<sup>1</sup> were the *negotiatores*. The title appears to have been quite a general one as a rule, applied to all types of business men other than those engaged on state contracts. It is true that *negotiator* sometimes seems to have the more restricted sense of 'financier' or 'money-lender', as when Cicero asks, about the mysterious Verrucius (a name which he suggests conceals the identity of Verres), whether he is a *mercator* (trader), *negotiator*, *arator* (farmer) or *pecuarius* (stock-rearer)<sup>2</sup>, but in general no such distinction is made and it is often quite impossible to determine precisely what kind of business a *negotiator* was engaged in.<sup>3</sup>

In the passage just mentioned Cicero alludes to the three main types of business men found in the provinces—traders, financiers and those engaged in agriculture, whether producing crops or livestock. Of the last group little needs to be said here. They were mostly ex-soldiers settled on the land by their former generals<sup>4</sup> or Italian farmers who, discouraged by the decline in Italian agriculture which accompanied Rome's expansion abroad, had bought or rented land in some suitable provincial area. Thus, some of the *aratores* in Sicily who came into conflict with Verres were Roman citizens,<sup>5</sup> and we find evidence of the presence of similar immigrants in Africa, Narbonese Gaul, Greece and Asia.<sup>6</sup> They were doubtless to be found wherever in the Roman world suitable land was obtainable.<sup>7</sup> Though we know of a number of wealthy Romans, like Cicero's friend Atticus, who owned extensive estates in the provinces,<sup>8</sup> on the whole these farmers and stock-breeders would be small-scale agriculturalists who usually settled permanently on their chosen farms and were gradually absorbed into the local population.

The *mercatores* or traders were a far more numerous and important group. We have already seen that they showed remarkable enterprise and were often to be found in areas not yet conquered by Rome. Sometimes preceding, sometimes following the legions, they were active in every corner of the world, often taking deadly risks in

<sup>1</sup> Cicero, *Leg. Manil.* 16 f.; *Flacc.* 38; Caesar, *B. Civ.* III, 32, 6; 103, 1; *Bel. Alex.* 70, 5 f.

<sup>2</sup> *Verr.* II, 2, 188. Cf. *ibid.* 6; *Planc.* 64; *Font.* 12. For *negotiator* meaning 'banker' cf. *Verr.* II, 1, 14, with *id.* II, 5, 155.

<sup>3</sup> For a fuller discussion of this disputed point see Hatzfeld, *Traf.* 193 f.

<sup>4</sup> See, e.g., M. E. Park, *The Plebs in Cicero's Day* (Brynmaur Diss. 1918).

<sup>5</sup> Cicero, *Verr.* II, 2, 6; 17; 155 *al.*

<sup>6</sup> Above, p. 62 f. (Africa); Cicero, *Font.* 12; 46; *Quinct.* 12; 28; 38; 79; 90 (Gaul); Hatzfeld, *Traf.* 62 f.; Rostovtzeff, *Hell. World*, 749 f. (Greece); Cicero, *Ad Fam.* XIII, 53; 69; 72; *Flacc.* 46; 51; 71 f.; 88; Appian, *Mith.* 46 f. Cf. Rostovtzeff, *Hell. World*, 958 f. and his references (Asia).

<sup>7</sup> Cicero, *Leg. Ag.* II, 42.

<sup>8</sup> See, e.g., Varro, *Res Rust.* II, *Praef.* 6; 2, 1-2; 20; 5, 1; 10, 10 f.; Cicero, *Ad Att.* I, 5, 7; Byrne, *Atticus*; Drumann-Groebe, *Gesch. Roms*, V, 63 f.; Jenny, 74 f. Below, p. 101 f.

regions, like Gaul before and during Caesar's conquest, which were actually or potentially hostile to Rome.<sup>1</sup> In the conquered areas they were naturally much more numerous, and frequently they were the first victims of resentment aroused among the local population by some action of the *publicani* or of Roman officials for which they were not responsible. Thus, for example, many of them with their wives and children were among the Italians and Romans murdered in the Mithridatic massacre in Asia in 88 B.C. and in the subsequent massacres in Delos in 87 and 69 B.C.<sup>2</sup> It is obviously impossible, in a work of this scope, to give a comprehensive account of the men engaged in commerce in every Roman province. For the eastern provinces we may refer to the admirable study of J. Hatzfeld, *Les trafiquants italiens dans l'Orient hellénique*, which has been the basis of all subsequent work in this field. No comparable work exists dealing with the western provinces, but most of the ancient sources will be found collected and discussed in the appropriate sections of the *Economic Survey of Ancient Rome*, edited by the late Tenney Frank, and in the various special studies of separate provinces written by modern scholars.<sup>3</sup>

There is evidence of trade carried on from Italy in very early times, but Rome does not appear to have taken any great part or interest in it. The earliest traders were Greeks from the south and from Sicily, whose presence is well attested in the Adriatic, in North Africa and in the Aegean area in the third century B.C. Their activities, severely curtailed by the Punic Wars, were resumed in the second century and they were joined by Italians from South and Central Italy, especially Campania, and probably also from Rome and North Italy generally. These traders invaded each province as it was annexed and their opportunities were vastly increased by the almost simultaneous destruction of the two great commercial cities of Corinth and Carthage in 146 B.C.<sup>4</sup> Rome's conquests not only opened up the whole ancient world to Italian trade but also created an almost insatiable demand, especially in Italy, for goods of all kinds. Moreover, the Roman government, hitherto indifferent to sea-borne commerce, was now compelled to take an interest in it. As a result, vigorous action was at last taken against the worst enemies of the traders, the pirates. With the almost complete suppression of piracy in the first century B.C., Italian commerce reached its zenith. In the

<sup>1</sup> See above, p. 49. Cf. Caesar, *B. Gal.* III, 1, 2; VII, 3; 42, 3; 55, 5; Dio Cass. XL, 33, 1.

<sup>2</sup> Above, p. 68. See Reinach, *Mith. Eup.* 127 f.; 142; Roussel, *Délos*, col. ath. 317 f.

<sup>3</sup> See Bibliography. Cf. Jenny, 77 f.

<sup>4</sup> See below, p. 98 f.



imperial period, however, it shows a progressive decline, due largely to the competition of merchants from Syria and the East generally.<sup>1</sup>

Italy never, at least in the period of Roman supremacy, achieved or even sought to achieve a balance of trade. She was essentially an importing country paying for her imports in cash or receiving them as tribute from conquered peoples. She did, of course, export certain goods, notably oil, wine and some manufactured articles, which were handled by Italian or other merchants in the provinces. Some of the Italian traders abroad, too, seem to have been engaged in local trade, in the course of which they sometimes sided with the local merchants in disputes with the *publicani*.<sup>2</sup> But the great majority of them were engaged in exporting to Italy the staggering variety of goods which poured into its markets. Apart from grain from Sicily, Sardinia, Africa, Egypt and elsewhere, and the many other natural products brought from every province, there was a vigorous trade in articles of luxury—linen goods from Spain, wild animals for public spectacles from Africa and the East, textiles, spices and other oriental rarities from Syria and even further afield, mass-produced statues and other art products from Greece, etc., etc. Above all, there was a constant demand for slaves, so that in the great slave-market of Delos, we are told, every slave was sold as soon as he or she was landed.<sup>3</sup>

The lending of money at interest, though frowned upon by Roman moralists and officially discouraged, was, as we have seen,<sup>4</sup> widely practised in Rome and Italy, and the social and political difficulties which it raised in the early republican period continued and were even aggravated in the second and first centuries B.C. To quote only one famous example, the conspiracy of Catiline in 63 B.C. had perhaps its origin, and certainly its strongest support, among men made desperate by debt. In the highly tendentious account of it given by Sallust nothing is more moving or more obviously authentic than the despairing manifesto issued by the conspirators, with its reference to the 'violence and cruelty of moneylenders' as the principal cause of their determination to fight.<sup>5</sup>

As Rome's hold over the Mediterranean world extended, vast quantities of precious metals were brought back as booty by victorious generals, and a steady stream of them also came as tribute and

<sup>1</sup> See below, p. 125, etc. Hatzfeld (*Traf.* 44 f.) estimates the number of Italians engaged in commerce and banking in Asia Minor in 88 B.C. at about 100,000. For the decline see *id. ib.* 178 f., and Pärvan, *Nationalität*, 35 f.

<sup>2</sup> Cicero, *Ad Att.* II, 16, 4.

<sup>3</sup> Strabo, XIV, 5, 2, 668. For Italian imports see the works quoted in the Bibliography, and for a general summary Frank, *Econ. Surv.* I, 352 f.

<sup>4</sup> Above, p. 49 f.

<sup>5</sup> Sallust, *Cat.* 33.

from the mines of Spain and other countries. The inevitable result was that Rome rapidly became the financial centre of the world. Exchange and banking operations soon linked her with every province and spread beyond the confines of the Empire into the neighbouring states. We read, for instance, of large sums of money invested by Romans of all classes in Asia and of how, as a result, when Mithridates invaded that province credit collapsed in Rome.<sup>1</sup> Some of these financial operations were conducted by the publicans, but there were also large numbers of independent financiers active, either in person or through agents, in the provinces. Of Gallia Narbonensis Cicero says, 'No Gaul does any business without the help of a Roman citizen and not a single coin circulates in Gaul without being entered in the account book of some Roman'.<sup>2</sup> In Delos, too, all but one of the known bankers after 166 B.C. were of Italian origin.<sup>3</sup> The same is true, though in a lesser degree, of nearly all the other provinces.<sup>4</sup>

There was, of course, wide variation in the scope and importance of these financial transactions. Some of the operators were mere money-changers or small-scale moneylenders, financing small business or commercial enterprises locally. Others, like the famous C. Rabirius Postumus, eventually financial adviser to Ptolemy, King of Egypt, 'lent money to whole peoples and had investments in several provinces'.<sup>5</sup> There are many cases recorded, both in literature and in inscriptions, where provincial cities or client kings contracted loans from Romans.<sup>6</sup>

It was the duty of the governor of each province to regulate these loans, fixing the rate of interest which could be charged and protecting the provincials from exploitation.<sup>7</sup> Between the creditors who constantly pressed him to relax his control and the debtors who as constantly appealed to him for protection he often found it difficult to hold the balance even. Influential friends of the Italian business

<sup>1</sup> Cicero, *Leg. Manil.* 18 f. Cf. above, p. 68.

<sup>2</sup> *Font.* 11. Cf. *Mur.* 42.

<sup>3</sup> Rostovtzeff, *Hell. World*, 798; Ferguson, *Hell. Ath.* 403. But cf. Larsen in Frank, *Econ. Surv.* IV, 357 f.

<sup>4</sup> The exceptions appear to be Syria and Spain, where we have no specific mention of Italian moneylending. Syria possessed a well-developed commercial and banking system into which the Romans found it difficult to penetrate. For Spain the absence of evidence is probably accidental.

<sup>5</sup> Cicero, *Rab. Post.* 4—and see the whole speech and the article by P. Guiraud, *Hist. d'un financier romain*, in *Rev. de Paris*, 1903. Below, p. 181 f.

<sup>6</sup> On the different types of bankers see Deloume, *Les Manieurs*, 178 f.

<sup>7</sup> Cicero, *Ad Att.* VI, 1, 15. Cf. above, p. 74.

men, sometimes senators or rich Equites who were themselves the real creditors, had a habit of writing letters urging the governor to use his influence to get a debt settled. Q. Cicero, a man of hasty temper, mortally offended a number of business men by his brusque refusal to bring pressure to bear upon his subjects in Asia.<sup>1</sup> His more diplomatic brother, the orator, who himself wrote many letters of recommendation to different governors for his business friends, criticized Quintus for his attitude but he, in his turn, when governor of Cilicia, had to deal firmly with importunate creditors.

One particularly obnoxious practice adopted by some governors was to shelve their own responsibility by granting to business men the office of *praefectus*.<sup>2</sup> This invested its recipients with considerable authority as deputies of the governor which they used to browbeat their unfortunate debtors. In some cases they even had command of bodies of troops which they used for their own purposes. Just before Cicero's arrival in Cilicia, a flagrant example had occurred of the misuse of such a *praefectura*. M. Scaptius, appointed *praefectus* by Cicero's predecessor, had gone to collect a debt from the town of Salamis in Cyprus and had besieged the town council in its chamber, causing five of its members to die of starvation. When Cicero investigated the case, he was horrified to find that Scaptius had been charging interest at 48 per cent. He at once cancelled Scaptius' *praefectura* and took away his troops and summoned the two parties to come to terms as to the amount of the debt. It then transpired that the real creditor, for whom Scaptius was a mere agent, was M. Brutus (subsequently one of Caesar's murderers), who, incidentally, was a son-in-law of the previous governor, Appius Claudius. Cicero, in spite of pressure from both Brutus and Atticus, remained firm in his refusal to grant a prefecture to Scaptius or any other business man in his province. But the political situation in Rome at the time was so tense that he dared not risk an open breach with Brutus by forcing through the discharge of the debt at the figure agreed by the Salaminians, which he obviously regarded as fair. So the matter remained unsettled, Brutus and his agents no doubt hoping that Cicero would be succeeded by some more accommodating governor.<sup>3</sup>

<sup>1</sup> Cicero, *Ad Quint.* I, 1, 19; 2, 6.

<sup>2</sup> See above, p. 29 f. References to this practice are frequent in the letters of Cicero. See, e.g., *Ad Att.* V, 7; 11, 6; 21, 10; VI, 1; 2, 8 f.; 3, 5 f.; *Ad Fam.* VII, 5, and the letters to Trebatius. Cf. Cicero, *Verr.* II, 3, 75; *De Orat.* II, 269; Nepos, *Att.* 6, 4; Cato *ap. Malcovati, Or. Rom. Frag.* I, pp. 198-9; Caesar, *Bel. Civ.* III, 32, 4; Madvig in *Rev. de Phil.* II (1879-80), 177 f.

<sup>3</sup> Cicero, *Ad Att.* V, 21, 10 f.; VI, 1, 5 f.; 2, 7 f.; 3, 5. Cf. Chapot in *Mél. Cagnat*, 70 f.

It is easy to put the blame for this cruel and sordid business on Brutus or Cicero, but there may have been circumstances connected with it of which we are ignorant.<sup>1</sup> In view of the plentiful evidence that both Cicero and Brutus were men of integrity, it is safer not to pass judgment on them for this one incident. What does clearly emerge is that Scaptius behaved with extreme brutality and that Cicero was right in refusing to countenance the use of *praefecturae* as a means of collecting debts. He was not so rigid in the case of the kingdom of Cappadocia which lay outside his province, for there he granted prefectures to two business men, another Scaptius and L. Gavius. King Ariobarzanes' creditors included both Brutus and Pompey, and Cicero says of him 'he cannot pay; he has no treasury and no revenues. . . . Nothing could be more impoverished than his kingdom or more penniless than its king'.<sup>2</sup> But even Ariobarzanes benefited from Cicero's integrity.

It is unjust to regard the cases of Salamis and Cappadocia as typical. Such stories of rapacity can be matched by stories of generosity to provincial debtors like that of the Cloatii to Gythium, of the Aufidii to Tenos or of Atticus to Athens, which are equally untypical.<sup>3</sup> The truth lies somewhere between these two extremes. It is always difficult, often impossible, to get a true picture of economic conditions in the ancient world at any given period, and still more difficult to trace accurately the causes of improvement or deterioration in them.<sup>4</sup> The incidence of debt is a case in point. The main reason why provincial communities or individuals contracted debt was, no doubt, in order to pay their tribute. Now we know that, in some provinces at least, the Romans exacted less tribute than the previous rulers so that, in normal times, the burden of debt would not be heavier than the provincials could bear, or, at any rate, than they had been accustomed to. It is probable, for example, that Asia Minor, between 123 B.C. and the Mithridatic Wars, enjoyed a period of prosperity which may be partly attributed to the help of Roman business men in financing its commerce. It was not until the exactions of Sulla and Mithridates and the whole series of Roman generals who held Asia Minor during the civil wars which ended the Republic had drained it dry that debt became a major problem there. It is

<sup>1</sup> See, e.g., T. Frank, *Econ. Surv.* I, 388 f.

<sup>2</sup> *Ad. Att.* VI, 1-3; V, 20, 6.

<sup>3</sup> Dittenberger, *Syll.*<sup>3</sup> 748; *I.G.* XII, 5, 860, 20-44; Nepos, *Att.* 2.

<sup>4</sup> Even so learned and accomplished a scholar as Rostovtzeff generalizes with extreme caution, and rightly so.

noteworthy that these exactions fell upon the Italian business men as well as upon the provincials.<sup>1</sup>

Nor must it be forgotten that debt was not a phenomenon introduced into the provinces by the Romans. We learn, for instance, that in Aetolia and Thessaly in 173 B.C., before Rome's annexation, there was such a burden of debt that there was risk of serious disturbances and a Roman commissioner was sent to try to solve the problem.<sup>2</sup> That there was corruption of every kind in Greece when she was free is a commonplace of historians, and it would be absurd to suggest that the various types of rulers replaced by Rome did not exploit their subjects. It is even possible that Roman business men, with their highly efficient methods of book-keeping and accountancy, brought order into the tangled finances of certain provinces.<sup>3</sup>

This is not to say that Roman business men were philanthropists. They were mainly concerned to make profit for themselves or their backers but, at the lowest estimate of them, it would not pay to ruin their clients. The interest rate of 48 per cent charged to Salamis is clearly exceptional and can only have been imposed because the security offered was of the poorest. The normal rate seems to have been about 12 per cent at most, no higher than that charged by the Greek and Asiatic bankers whom the Romans replaced.<sup>4</sup> Nor, for that matter, are rates as high or higher unknown to modern money-lenders.

Such, then, were the main occupations of the *negotiatores*. Their status varied widely with the scope and importance of their business activities and they cannot all be included in the Middle Class. Many, even possibly a majority, were freedmen and some slaves, the latter, of course, acting as agents for their masters. Small-scale traders or moneylenders would be largely of this type. Larger operations, involving considerable amounts of capital and sometimes extending over several different provinces, were mainly in the hands of men of equestrian rank, whose numbers were quite small in proportion to the total number of business men. Figures are not available, but it is instructive that in 7 B.C., at a time when the equestrian property assessment was 400,000 HS., there were in Cyrene only 215 Romans

<sup>1</sup> See Broughton in Frank, *Econ. Surv.* IV, 553 f.; Rostovtzeff, *Hell. World*, 818 f. Cf. Verres' ill-treatment of Italian business men in Sicily (Cicero, *Verr.* II, 3, 18 f.; 59 f.; 96; 167 f.). Below, p. 157. Similarly, the prosperity of Delos ceased abruptly at the time of the Mithridatic War (B.C.H. VIII, 101).

<sup>2</sup> Livy, XLII, 5, 7 f.

<sup>3</sup> See, e.g., Polyb. VI, 56; XXXII, 13. Cf. Byrne, *Atticus*, 20 f.

<sup>4</sup> Rostovtzeff, *Hell. World*, 960; 1286 *al.*

with property assessed at 10,000 HS. or more, and these would include *publicani* as well as others who cannot be classed as business men.<sup>1</sup>

It would seem, however, that the number in Cyrene was exceptionally small, no doubt because its trading possibilities were limited. In the Verrine speeches Cicero mentions by name some twenty men, not including *publicani*, who were of equestrian rank, and these can be only a fraction of those active in Sicily at the time. They were sufficiently numerous in Africa at the end of the second century B.C. to give Marius powerful support in his attack on Metellus.<sup>2</sup> Later, Equites from Africa were among those who testified against Catiline in 64 B.C.,<sup>3</sup> and they formed part of the 'Senate' of Cato in Utica.<sup>4</sup> In Spain the *equites Romani* were numerous enough to be subjected to a separate levy by Q. Cassius in 48 B.C.<sup>5</sup> Cicero speaks of *equites Romani qui in Asia negotiati sunt* and we find the names of a considerable number of them in his speeches and letters.<sup>6</sup> The letters also contain the names of others who had business interests in Bithynia and Cilicia, and we may assume their presence in other provinces for which the evidence is less copious or non-existent. It is to be assumed, for instance, that all those who received *praeecturae* for business reasons, as described above, were of equestrian rank.<sup>7</sup>

The Roman citizens residing in a province had a status different from and generally superior to that of the native population. The privileges they enjoyed varied from province to province and at different periods, because they depended not so much on any fixed legal provisions as on the attitude of the governor who, within the broad limits of the *lex provinciae*, had very extensive discretion. We have already seen that it was his duty to regulate the financial operations carried on in his province between natives and Romans by fixing the rate of interest on loans and supervising the terms of agreements. It was mainly from such transactions that legal disputes arose, and it was one of the governor's most important civil functions to control judicial procedure. For minor cases the ordinary local courts

<sup>1</sup> J. G. C. Anderson in *J.R.S.* XVII (1927), 40 f.

<sup>2</sup> Sallust, *Jug.* 65, 4. Below, p. 120 f.

<sup>3</sup> Asconius, p. 87. Below, p. 166.

<sup>4</sup> Plut. *Cato Min.* 59; 61 f.; Dio Cass. XLIII, 10, 2. Below, p. 192 f.

<sup>5</sup> *Bel. Alex.* 56, 4. In this case, *equites Romani* would include Spaniards who had been given citizenship and had the equestrian census amount. Strabo (III, 5, 3, 169) tells us that Gades alone had, in his day, 500 men of this type, more than any Italian city except Patavium. Cf. *Bel. Hisp.* 25 f. Below, p. 153 f.

<sup>6</sup> *Reg. Deiot.* 26.

<sup>7</sup> Above, pp. 30, 82 f. For *equites Romani* in Macedonia see Cicero, *Pis.* 86. For Greece see Atticus, *M'. Curius* and Hatzfeld, *Traf.* 37; 80; 84; 204. For Narbonese Gaul see Cicero, *Font.* 32.

were usually regarded as sufficient, but the governor visited each area of his province in turn and held assizes to deal with more important suits. Roman citizens were sometimes subject to local jurisdiction, especially in 'free' communities,<sup>1</sup> but in general they would have access to the governor's courts and the privilege of having their disputes settled according to Roman law. Moreover, the governor usually selected his jurors from among the Roman citizens in the area of assize—a practice which would normally give a great advantage to Romans pleading in his court.<sup>2</sup>

In regard to taxation the position is not quite clear. There are cases recorded of Roman business men being exempted from certain forms of local taxation, but the very existence of these exceptions appears to imply that, as a rule, they had to pay all dues equally with the native inhabitants.<sup>3</sup> Under these circumstances it was natural that the Roman citizens in any given area should unite. In most provinces we find associations of citizens described by such titles as *conventus civium Romanorum*, *cives Romani qui . . . consistunt*, *cives Romani qui . . . negotiantur*, etc. They carried out some activities in common, notably religious ceremonies, dedications or presentations, but their organization was very loosely knit. Though it is true that the members of these associations were mainly business men and so would have some interests in common, it would be wrong to regard them as business associations since they included men of all trades and occupations. For the most part, their activities were social or religious, and they are important only as showing a consciousness of nationality among Romans abroad.<sup>4</sup>

<sup>1</sup> Cicero, *Flacc.* 70 f.; Dittenberger, *Syll.*<sup>2</sup> 785.

<sup>2</sup> Cicero, *Verr.* II, 1, 73 f.; 2, 30 f.; 70 f.; 3, 28; 135 f.; *Flacc.* 11. Cf. P.-W. *s.v.* *Reciperatio*, I A, 418 f.

<sup>3</sup> Livy XXXVIII, 44, 4; *Lex Antonia de Termess.* (Dessau, *I.L.S.* 38) II, 32 f.; Cicero, *Ad Att.* II, 16, 4. Cf. the case of Italian farmers in Sicily who were subject to tithes (Carcopino, *Loi de Hiéron*, 225 f.). Below, p. 95, n. 3.

<sup>4</sup> For a full discussion see A. Schulten, *De Conv.*; P.-W. *s.v.* *Conventus*, IV, 1173 f.; *s.v.* *Consistere*, IV, 922 f.; Hatzfeld, *Traf.* 257 f. (disagreeing).

## CHAPTER IV

# THE MIDDLE CLASS IN POLITICS

## I. TO THE GRACCHI

FROM the time when, after a fierce and prolonged struggle, the patrician and plebeian noble families united into an aristocracy based upon the tenure of public office and membership of the Senate until the Gracchan revolution at the end of the second century B.C., the control of Rome's policy, both at home and abroad, was exercised almost exclusively by the Senate. As late as the middle of the second century, Polybius took its predominance for granted, stressing, in particular, the senatorial control of finance. The number of public contracts administered by the Senate through the censors was, he tells us, so great that 'practically everybody' was interested in them and the Senate was thus enabled to keep the mass of the people 'in its debt'.<sup>1</sup> The Senate had also the power to make regulations affecting trade and to conclude commercial and financial agreements with foreign nations and subject peoples.<sup>2</sup>

So long as it could retain its financial control the Senate could continue to shape Roman policy. But there were obvious dangers inherent in such a state of affairs—on the one hand the danger of corruption among the senators themselves, and on the other the probability that those outside the Senate who had commercial and financial interests would attempt to influence senatorial policy to their own advantage. The Romans were well aware of these dangers and appear to have tried to obviate them. As we have seen, senators were excluded from participation in public contracts and the *Lex Claudia* of 218 B.C. was an attempt to limit their opportunities of making money by commerce.<sup>3</sup> Both measures were clearly designed to guard against corruption within the Senate. It was more difficult to protect public policy from interference by non-senators. This could be done only by constant vigilance on the part of the government. Even at the risk of seeming to cling to power for selfish reasons, the Senate must maintain its control, for there was, at this time, no possible alternative government.

<sup>1</sup> Polyb. VI, 11 f. There is no need to follow T. Frank (*Econ. Surv.* I, 148 f.) in his criticisms of this statement.

<sup>2</sup> Below, p. 95 f. Cf. Nitzsch, *Die Gracchen*, 156 f.; 175.

<sup>3</sup> Above, p. 50 f.



We must now attempt to discover how well these safeguards worked—whether, in fact, there is any evidence that Roman policy was influenced by selfish motives of profit either within or outside the Senate.

First let us deal with attempts made by outside financial interests to influence senatorial policy—a subject on which there is the widest possible divergence of opinion among modern scholars. We may discard, straight away, the view held by some scholars that the Senate was engaged in this period in a perpetual struggle for power with a ‘capitalist class’. As we have seen, no such class existed until the time of C. Gracchus. The various elements which were united by Gracchus into the Middle Class were, before his time, ill-defined and quite unorganized. The business men among them had no political power beyond that of any other citizen, nor do they appear to have been conscious of any common interests, if indeed they had any beyond the mere acquisition of wealth. In any dispute with the Senate they could not hope to do more than embarrass their opponents, unless they could succeed in penetrating into the magistracies and the Senate in sufficient numbers to take control themselves, which they never desired or attempted to do. Effective political power remained with the Senate until the Gracchi temporarily succeeded in mobilizing the Assembly against it. All that the business men could do was either to use their financial power when the state needed money or else to bring personal influence to bear on individual senators. This is precisely what they did.

We have seen that, from very early times, the Roman government had tried to control moneylending by a whole series of laws, the *leges fenebres*.<sup>1</sup> A succession of prosecutions of moneylenders or contractors by magistrates indicates a similar anxiety on the part of the governing aristocracy to check any form of business activity which they thought likely to be harmful.<sup>2</sup> To this the business men may have replied by giving their support to the opposition led by Flaminius and in particular to the *Lex Claudia*,<sup>3</sup> but their opportunities to embarrass the Senate seriously did not come until the Second Punic War, which put a severe strain on the finances of the state.

In 215 B.C. the treasury could not afford to pay for contracts for the supply of necessities to the troops and the Senate asked contractors to provide the goods on credit. A number of them did so, but they

<sup>1</sup> Above, p. 50.

<sup>2</sup> Livy, VII, 28, 9; X, 23, 11 f.; 47, 4; XXXIII, 42, 10; XXXV, 7; 10, 12; 41, 9; XXXVIII, 35, 5 f.

<sup>3</sup> Above, p. 50 f.

imposed two conditions—that they should themselves be exempt from military service and that the state should accept responsibility for any losses in transit.<sup>1</sup> Livy regards their action as an example of great patriotism, but he later records that some of the contractors were guilty of fraud. The Senate was at first reluctant to take action against the guilty men, fearing, apparently, that future contracts might suffer, but the tribunes took the case before the Assembly. Finally the Senate also took courage and co-operated with the tribunes. In spite of rioting, organized by the contractors, the frauds were punished.<sup>2</sup> The incident shows that the Senate and the magistrates could still defeat political pressure from outside. But a few years later similar pressure was more successful. A group of rich men who had lent money to the state in 210 B.C. had still, in 200 B.C., received back only one-third of it. They complained that their money, lent for the Second Punic War, was now to be used to finance the war with Macedonia, and eventually they extorted a concession from the Senate. In lieu of the money due to them, they were given tracts of public land near Rome, with the option of surrendering the land when the state could afford to repay the money.<sup>3</sup>

There are signs that some senators, at least, did not fail to see the danger of the state being held to ransom in this way by private individuals. Cato, despite his evasion of the Claudian law,<sup>4</sup> was enough of a patriot to resent the intrusion of business interests into politics. As governor of Sardinia and of Spain, he showed a marked hostility to the business men in those provinces.<sup>5</sup> As censor in 184 B.C. he came into open conflict with the *publicani*. He and his colleague, L. Valerius Flaccus, let their contracts on terms very advantageous to the state. The contractors protested to the Senate, which upheld their protest and cancelled the contracts. But Cato was not to be so easily defeated. He replied by excluding the recalcitrant contractors from the new auction and succeeded in re-letting the contracts on only slightly less advantageous terms.<sup>6</sup>

The censors of 169 B.C., C. Claudius Pulcher and Ti. Sempronius Gracchus, had a still more serious brush with the publicans. In letting

<sup>1</sup> Livy, XXIII, 48 f.; XXXIV, 6, 13. Cf. a similar incident in 214 B.C. (Livy, XXIV, 18, 10; Val. Max. V, 6, 8).

<sup>2</sup> Livy, XXV, 1, 3 f.; 3, 8 f. Livy's use of the phrase *ordo publicanorum* in this connection is an obvious anachronism.

<sup>3</sup> Livy, XXXI, 13. Cf. *id.* XXVI, 36; XXIX, 16; XXXIII, 42, 2 f.

<sup>4</sup> Above, p. 51.

<sup>5</sup> Livy, XXXII, 27; XXXIV, 9, 12. Cf. below, p. 90, n. 2, 96 f.

<sup>6</sup> Livy, XXXIX, 44, 7 f.; Plut. *Cato Mai.* 19; *Flaminin.* 19; Fraccaro, *Ricerche*, 121 f. For some speculations about other signs of Cato's hostility to business men during his censorship see Nitzsch, *Die Gracchen*, 125 f.; 156 f.; 370 f.; Colin, *Rome et la Grèce*, 259.

their contracts, they excluded from the auction all those who had held contracts from the previous censors of 174 B.C. The reason for their action is not known, but it is probable that they were anxious to prevent the same companies from obtaining contracts over and over again, for fear they should become too powerful. The publicans naturally resented this action and began a strong agitation against the censors. This time the Senate supported the censors, but the publicans persuaded a tribune, P. Rutilius, who had personal reasons for hating the censors, to help them. He took the unprecedented step of proposing to the Assembly that the contracts be cancelled. The censors themselves attended the meeting addressed by Rutilius and he promptly indicted them for infringing his tribunician rights. The trial of Claudius which followed revealed a strong popular feeling against the censors, an indication of the large numbers who were interested in the contracts. However, the influence of the Senate and the popularity of Gracchus brought about Claudius' acquittal and the charge against Gracchus himself was dropped. The censors later revenged themselves upon Rutilius by degrading him in the census lists.<sup>1</sup>

Not long afterwards, in 167 B.C., the Senate had to decide what was to be done about the working of the Macedonian mines which had come under Roman control as a result of the Third Macedonian War. It was decided to close most of them on the ground, according to Livy, that 'they could not be worked without contractors and where there were contractors the law was useless and freedom was denied to the allies'. The subsequent reversal of this decision may have been due to pressure from business interests, but it may equally have been forced on the Senate by the need for the products of the mines. Evidence is lacking on the point.<sup>2</sup> It was probably at about this same time or a little later that the Senate placed restrictions upon the working of the mines of Italy and at Victumulae in Cisalpine Gaul. Again the motive is not known, but it may well have been a desire to limit the activities of the *publicani*.<sup>3</sup>

Finally, in this discussion of the relations between Senate and

<sup>1</sup> Livy, XLIII, 16; XLIV, 16, 8; Val. Max. VI, 5, 3. Cf. *De Vir. Illust.* 57. It is not necessary to assume from this incident any connection between the *publicani* and the equestrian centuries. The latter had reasons of their own for dissatisfaction with this pair of censors, who had been very strict in their revision of the centuries. Above, p. 44.

<sup>2</sup> Above, p. 59 f. Cato took part in the debate on Macedonia, and it is tempting to conjecture that he was one of those who advocated the closing of the mines. (Spartian, *Had.* 5, 3; Priscian, III, 8 (= Keil, *Gramm. Lat.* II, 88); cf. above, p. 89).

<sup>3</sup> Above, p. 53. See especially M. Besnier in *Rev. Archéol.* V, 10 (1919), 31 f.; Frank, *Econ. Surv.* I, 256 f.; 263 f.

business men, we may mention an investigation carried out in 138 B.C. by the consuls, on instructions from the Senate, into alleged crimes of violence committed by the employees of a company holding the contract for pitch-making in Bruttium. The whole affair is highly mysterious, but it is clear, both from the interest taken by the Senate and from the fact that the counsel employed by the company were C. Laelius and Ser. Sulpicius Galba, that the company was rich and important. Cicero's account of the case is very cautiously worded but one can scarcely avoid the suspicion that Laelius' abandonment of the brief with the advice that Galba, a less scrupulous advocate, be employed, indicates something rather unsavoury.<sup>1</sup>

On the whole, then, we may conclude that, throughout this period, the Senate showed great reluctance to make concessions to, or yield to pressure from, groups of business men, and that it could usually defeat them in any dispute so long as it remained united. How far individual senators were influenced by business interests it is impossible to say.

In dealing with the other possible type of commercial influence upon policy—corruption among senators themselves due to the increasing opportunities of moneymaking—we have no direct evidence to go upon. We are compelled to make assumptions based upon a study of the actual policy pursued by the Senate.

Now, though it is undeniable that the Senate sometimes pursued a policy which favoured the interests of their own, i.e. the land-owning, class, and though it is probable that some senators were financially interested, through agents, in various forms of commercial activity,<sup>2</sup> we must not forget that the senatorial aristocracy had a long and honourable tradition of loyal service to Rome. The main lines of policy, therefore, were generally decided by what the Senate conceived to be the best interests of the state. Naturally opinions differed, within the Senate itself, as to what those interests were, and policy varied as one section or another gained the upper hand, but it would seem that the decisions taken were far more influenced by political than by economic motives. For the period before the Punic Wars all the evidence seems to suggest that the decisions of the Senate were not affected by any interest in foreign trade. It is probable that such trade as there was was in the hands of Greeks from South Italy, to whom the Senate showed complete indifference. In the western half of the Mediterranean, Carthage was recognized as the predominant commercial power, as is shown by Rome's early treaties

<sup>1</sup> Cicero, *Brutus*, 85 f. Cf. Colin, *Rome et la Grèce*, 532 f.

<sup>2</sup> Above, p. 51.

with her,<sup>1</sup> and in the eastern half early treaties with Rhodes (306 B.C.) and Egypt (273 B.C.), if indeed they are genuine, were probably due to the initiative of those two powers who wished to retain their commercial supremacy there.<sup>2</sup> It was the First Punic War which made the Senate realize, for the first time, the importance of sea power. Hence we find, in the interval between the two Punic Wars, signs that the Roman government was beginning to take an interest in the sea and in sea-borne commerce. South Italian traders who supplied arms to the rebellious mercenaries of Carthage caused the Senate some embarrassment, but their alleged ill-treatment by the Carthaginians provided an excellent excuse for the seizure of Sardinia,<sup>3</sup> though this action is best explained as purely a measure of defence and not in any way intended to serve the interests of trade.

The main concern of the Romans in this period was to prepare for or prevent a renewal of the war with Carthage, and to this end they attempted to secure their rear by subduing the Gallic tribes of North Italy and strengthening their hold on the Adriatic Sea. For this latter move it was again Italian traders who provided the opening. The pirate bands of Illyria had carried on their raids upon shipping in the Adriatic for many years without a protest from Rome, but in 230 B.C. the Senate suddenly changed its policy and sent an embassy to Queen Teuta to protest against the molestation of Italian traders there. The murder of one of the envoys led to a two-years' war which ended in the defeat of the Illyrians and the establishment of a Roman protectorate over part of the Eastern Adriatic coast. This action, though nominally in the interests of commerce, was dictated by strategic motives, and the footing thus gained on the Balkan mainland proved very valuable in preventing Philip of Macedon from carrying out his threat of helping Hannibal during the latter's campaigns in Italy.

Hardly had Rome finally secured her hold upon the Adriatic by a second campaign in Illyria (219 B.C.) when she was involved in the most dangerous of all her wars, the Second Punic War. For this Polybius<sup>4</sup> assigns two causes—the previous defeat of Carthage and Rome's seizure of Sardinia. The Carthaginians, evicted from Sicily, Sardinia and Corsica, had turned their attention to Spain in the hope of restoring their shattered finances by developing its natural resources. The fact that for twelve years (238 to 226 B.C.), with only one ineffective protest in 230 B.C., the Romans had allowed this

<sup>1</sup> Frank, *Econ. Surv.* I, 6 f.; 34 f.

<sup>2</sup> Colin, *Rome et la Grèce*, 31 f.; C.A.H. VII, 822 f.

<sup>3</sup> Above, p. 49.

<sup>4</sup> III, 9 f.

process to continue proves that the Senate can have had no interest in the commercial possibilities of Spain. In 226 B.C., however, they took a firmer line and extorted from Hasdrubal, the Punic commander, an undertaking not to cross the Ebro 'for warlike purposes'. In this there was no suggestion that Rome wished for a share in the exploitation of Spain. The only considerable commercial rival of Carthage in Spain was Massilia, an ancient ally of Rome, and it was she who reaped any commercial advantage that accrued from the agreement of 226 B.C. The Senate's sole object, apart from a possible concern to assist Massilia, was to keep northern Spain and southern Gaul as a buffer against possible attack upon Italy.<sup>1</sup> They appear to have thought this precaution adequate, which explains why they were so slow to take action against Hannibal when his aggressive intentions became obvious. Even on the very eve of the outbreak of war, when Saguntum had fallen to Hannibal, the embassy which the Romans sent to Carthage did not demand that Spain be given up but only that the military threat be removed by the surrender of Hannibal and his advisers.

The war which followed ended in the complete military defeat of Carthage, yet in the terms of the treaty which Rome dictated there is no trace of any attempt to destroy the commerce of Carthage nor to impose conditions favourable to Italian traders in the Western Mediterranean. Though her fighting forces were crippled, she was allowed to continue her trading activities and so rapid, indeed, was her financial recovery that she was able, in 191 B.C., to offer to pay off the whole of the indemnity which she had been given fifty years to pay. It is true that Spain was annexed by Rome, but the decision appears to have been dictated by strategic necessity—to prevent any further threat to Italy from that direction and to give support to Massinissa of Numidia, on whom Rome now principally relied to keep Carthage in check. Naturally the Romans expected to obtain from the tribute of Spain and from the exploitation of mines and other natural resources enough to pay the cost of its occupation and possibly some profit for their treasury, but even these hopes were disappointed. 'It is doubtful', says a recent writer on the subject, 'if this new acquisition showed clear and steady profit to the Romans before 133 B.C.'<sup>2</sup>

Immediately after she had secured her hold upon the western half of the Mediterranean, Rome became involved in a struggle for

<sup>1</sup> See F. R. Kramer in *A.J.P.* LXIX (1948), 1 f.

<sup>2</sup> Van Nostrand in Frank, *Econ. Surv.* III, 123. Cf. above, p. 57.

control of its eastern section. By establishing her protectorate on the eastern shore of the Adriatic, as a result of the Illyrian Wars,<sup>1</sup> she had aroused the suspicion and hostility of the King of Macedon, who had come to regard himself as the natural protector of Illyria and Greece. These suspicions led Philip, who did not dare to attack Rome alone, to promise support to Hannibal when, after his victory at Cannae, he seemed certain to conquer Italy. Rome retaliated by supporting the Aetolians in a desultory war with Philip which is known as the First Macedonian War, and no help came to Hannibal from across the Adriatic. But the mutual suspicion and fear thus aroused made the Romans, in spite of the exhaustion which followed the Second Punic War, pay heed to the appeals and warnings of Rhodes and Pergamum and embark upon a second war with Macedon in 200 B.C.<sup>2</sup>

This war started Rome upon her career of conquest in the Eastern Mediterranean. Opinions vary as to her motives in the struggle, but there can be little doubt, considering the need for a period of recuperation and the obvious reluctance of the Senate to declare war, that the principal motive was self-defence against what was regarded, rightly or wrongly, as a dangerous threat to Rome's security. There was also a section of the Senate which was influenced by what has been called a 'sentimental' motive—a desire to champion the cause of Greece against Macedonian tyranny. Was there a third motive—the economic motive? As we have seen, we may safely reject the theory that the decision to go to war was influenced by the 'capitalist class', for the very simple reason that no such class existed. The only ancient evidence of any share taken by business men in this decision is the protest, already mentioned,<sup>3</sup> of those who had lent money for the Second Punic War against it being used for the war with Philip. But we must not forget that the Senate was now aware of the existence of Italian commerce, even if only as an excuse for otherwise indefensible acts of aggression. There may, then, have been some senators who looked beyond the immediate purpose of crushing the Macedonian danger to the trade of the Aegean and of Asia. If so, they merely gave their support to a decision taken on quite other grounds.

After defeating Philip of Macedon, Rome became involved in another successful war against his ex-accomplice, Antiochus of Syria, whom the Senate thought likely to succeed Philip as a potential threat to Italy. As a result of these victories the Romans could have annexed

<sup>1</sup> Above, p. 92.

<sup>2</sup> See Macdonald and Walbank in *J.R.S.* XXVII (1937), 180 f., and their references.

<sup>3</sup> Above, p. 89.

large territories in the Eastern Mediterranean and enabled their traders to gain a large share in the trade of that area. Instead the Senate decided against any further extension of the empire. Macedonia and Syria were greatly weakened, Greece was declared free and the faithful allies, Rhodes and Pergamum, were rewarded with grants of lands taken from the defeated monarchs. Considerable booty was shipped to Rome, but no territory was annexed.

The policy thus revealed appears to have had one overriding aim—to prevent the rise in the Eastern Mediterranean of any single power or group of powers which could threaten Rome as Hannibal had done. It was not imperialistic; it has, indeed, been described as ‘anti-imperialistic’.<sup>1</sup> Perhaps it is best described as defensive. The subsequent relations which Rome formed with ex-allies and ex-enemies alike were designed to create a balance of power which Roman diplomacy strove constantly to maintain. The treatment of Greece shows strong traces of the ‘sentimental’ motive already mentioned.<sup>2</sup> Of any intention to promote the interests of Italian commerce there is scarcely a single indication. It is true that, as a result of these wars, the Eastern Mediterranean became better known to Romans and Italians and we soon find many of them trading and settling in that area, but no attempt was made to give them any unfair advantage over their competitors or even to protect them adequately against piracy. The policing of the seas was left to the Rhodians, who kept their naval and commercial predominance.<sup>3</sup> In spite of its apparent generosity, this policy did not succeed in maintaining peace for long. Within twenty years Rome was again at war with Macedon. Before and during this Third Macedonian War (172–169 B.C.), Rhodes and Pergamum wavered in their loyalty to Rome, and both would doubtless have preferred it to end in stalemate, if not in a Macedonian victory.<sup>4</sup> It is not surprising, therefore, that the Senate decided that, though neither had openly declared against Rome, they must be punished. In dealing with Pergamum, all that was considered necessary was to weaken the position of its king, Eumenes, by fostering dissensions within his kingdom and encouraging his neighbours to be troublesome. Rhodes suffered much more severely. Some senators demanded a declaration of war against her, and it was only

<sup>1</sup> T. Frank, *R. Imp.* 186. For the opposite view see Colin, *Rome et la Grèce*, *passim*.

<sup>2</sup> See especially C.A.H. VIII, 156 f.

<sup>3</sup> See especially Ormerod, *Piracy*, 186 f. Cf. Livy, XXXVIII, 38, 11; Polyb. XXI, 45, 16. The concession extorted from Ambracia for Roman and Italian traders (Livy, XXXVIII, 44) must be regarded as quite exceptional. Frank, *R. Imp.* 279 f. Cf. above, pp. 84, 86.

<sup>4</sup> Gellius, VI (VII), 3, 16; Polyb. XXIX, 10.



after vigorous opposition by Cato and others that the Senate decided against it. Instead, Rhodes was deprived of a number of her dependencies and a heavy blow was struck at her commerce by setting up the island of Delos as her rival. Delos, which was to be under the control of Athens, was declared a free port in 166 B.C. Traders of all nationalities were to be allowed to use the port free of dues. As a result, this small and barren island, which had not anything like the harbour facilities of Rhodes and had never before been a serious rival to her, rapidly attracted to itself a considerable proportion of the trade of the Aegean. Polybius<sup>1</sup> tells us that the Rhodians regarded this as their severest punishment.

This harsh treatment of Rhodes represents a fundamental change in Roman policy which requires explanation. Why was she so much more severely handled than Pergamum? Why did the Senate choose to punish her by damaging her commerce? And why was Delos used for this purpose? All these questions demand an answer, if we are to get a true insight into the motives of the Senate. To the first there is no answer in anything we know of the political or strategic aims of senatorial policy. On the face of it, this peace-loving, commercial republic could never threaten Rome's dominance in the Mediterranean. Nor was she likely to have any such ambition, though Eumenes might well have done so. Her naval power had been used principally to keep the pirates in check and had thus benefited everybody who sailed the Eastern Mediterranean. Its weakening merely meant that Rome must shoulder the additional burden of policing the sea. Moreover, her very vacillation during the dispute between Rome and Macedon had been due to the existence in Rhodes of two factions, one favouring Rome and the other Macedon. It would have been sufficient for Rome to ensure, as she had often done in other states, the predominance of the pro-Roman faction.

The solution to this problem, and the answers to the other two questions, must lie in a change in the Senate's attitude to commerce. We have seen that Carthage had been allowed to carry on her commercial activities after the Second Punic War and that they had enabled her to make a rapid financial recovery. That recovery had been jealously watched by the Senate, which cannot have failed to see the reason for it. Rhodes, too, was a wealthy commercial city. Speaking in the Senate against the proposal to declare war on Rhodes, Cato accused some senators of harbouring a desire 'to plunder and

<sup>1</sup> XXXI, 7; XXXIII, 17.

possess her wealth'.<sup>1</sup> Whether he meant simply that they were greedy for booty or that they had an eye to the commercial possibilities if Rhodes should be crushed, we cannot now determine. But, in one way or another, commerce entered into the Senate's deliberations. It was recognized that the best way to injure a commercial power was through its trade—an idea which had been absent from the discussions about Carthage. This is not to say that the Senate's final decision about Rhodes was intended to help Italian traders to take the place of the Rhodians, though that view has its advocates.<sup>2</sup> Its purpose was largely negative—i.e., to damage Rhodian commerce—as is shown by the further decision to make Delos a free port to all nationalities.

For the choice of Delos a number of reasons have been suggested—the convenience of its geographical position, its previous relations with Rome, its connection with Athens, its former dependence upon Rhodes and the Seleucid kings of Syria, its international character due to its religious importance.<sup>3</sup> All these considerations may have entered into the Senate's decision, but scholars who suggest them give the impression of being strongly influenced by reaction against the once popular view that the choice was due mainly, if not entirely, to pressure from Italian business men.<sup>4</sup> Now, though we may safely reject this last theory, on the ground that business men could not, at this period, so decisively influence policy, we cannot altogether rule out the possibility of a commercial motive in the Senate's decision. By declaring Delos a free port, the Senate showed that it was aware of its potentialities as a rival to other Aegean ports. Had they handed it over to Athens, it would have become merely a subsidiary port to the Piraeus, as it had previously been to Rhodes. By internationalizing it, they gave to Italian traders, whether intentionally or not, opportunities in the Eastern Mediterranean which they had not had before. The Italians were not slow to seize them. So long as Rhodes had dominated trade in that region, their activities had been restricted. The Rhodians had not encouraged foreign traders to settle amongst them, and there is no record of any Italian

<sup>1</sup> Gellius, VI (VII), 3, 7; 3, 52. Cf. Sallust, *Cat.* 51, 5; Livy, XLV, 25, 2; Nitzsch, *Die Gracchen*, 156 f.

<sup>2</sup> e.g. Lange, *R. Alt.* II, 305 f.; Colin, *Rome et la Grèce*, 267 f.; 535 f. Nitzsch (*Die Gracchen*, 176) points out that the abolition of the *tributum* in 167 B.C. would increase the demand in Rome for eastern luxury goods.

<sup>3</sup> See especially the works of Hatzfeld, Roussel and Rostovtzeff mentioned in the Bibliography.

<sup>4</sup> See, e.g., Lange, *R. Alt.* II, 305 f.; Heitland, *R. Repub.* II, 156 f.

or Roman business man established there.<sup>1</sup> But to Delos they flocked in ever-increasing numbers and soon formed an important element in its population.<sup>2</sup>

It has usually been held that the bulk of the Italians in Delos were from South Italy and Sicily, many of them being Greeks. Many, too, were slaves or freedmen, so that very few were of a standing to have influenced senatorial policy. But it is a striking fact that among the names of freedmen and slaves found there, many belong to prominent Roman families, both senatorial and equestrian. It is unfortunate that we have no clear evidence of what connection, if any, existed between these Delian traders and their *patroni* in Rome, but it would be surprising if there were none at all. Delos soon became the principal slave market of the world and there was a huge demand for slave labour on the large estates owned by rich senators and others in Italy. It may be, therefore, that some, at least, of the freedmen and slaves in Delos were acting as the agents of rich Romans in the purchase of slaves and other goods. It is thus possible that some senators supported the action taken against Rhodes for their own private gain. We may therefore regard the treatment of Rhodes in 167-166 B.C. as the first clear example of a policy influenced by commercial considerations. But the Senate persisted in its refusal to annex territory. The collapse of the Macedonian monarchy after the Third Macedonian War threw upon Rome the responsibility for providing for the government of Macedonia. Instead of annexing it as a province, the Senate divided it into four independent republics which were encouraged, by a lightening of the burden of taxation, to attempt to govern themselves. It was not until twenty years later, when attempts to revive the monarchy showed that this policy had failed, that Macedonia became a Roman province.<sup>3</sup>

Thus, for a period of more than fifty years, between the annexation of Spain and that of Macedonia, despite continuous and decisive successes in war, the Romans steadfastly refrained from increasing their empire. The reasons for this policy are not known, though difficulties of administration may have been one.<sup>4</sup> But the Senate can hardly be accused of having extended Rome's power in the interests of trade.

The year 146 B.C. saw a change of policy. Closely following the

<sup>1</sup> C.A.H. VIII, 641.

<sup>2</sup> Hatzfeld, *Traf.* 31 f.; *id.* in B.C.H. XXXVI (1912), 1 f.

<sup>3</sup> Above, p. 58 f.

<sup>4</sup> So Marsh, *Founding of the R. Emp.* Ch. I. Cf. Ferguson in J.R.S. XI (1921), 86 f.; Nitzsch, *Die Gracchen*, 86 f.

annexation of Macedonia came two acts which have often been described as crimes due largely to the influence of business men seeking new markets—the destruction of Corinth and Carthage, the leading commercial cities of the Eastern and Western Mediterranean respectively.

Corinth was destroyed as a result of the Achaean War, a desperate and futile attempt by the Achaean League to throw off the yoke of Rome. The decision to destroy the city was taken by a commission of senators in consultation with L. Mummius, the general on the spot, and the responsibility for this drastic procedure rests, therefore, upon the Senate.<sup>1</sup> Ancient writers were obviously shocked by it, and their numerous references to it reveal embarrassment and a desire to explain away its ruthlessness. In this respect Cicero may be taken as typical, for here was a moral difficulty to which he returned again and again. Apart from a suggestion, made without much conviction in the *De Republica*,<sup>2</sup> that Corinth was morally decadent and drew destruction upon herself, he offers two explanations of her fate. The first<sup>3</sup> is that it was a punishment for the hostility of the Achaeans to Rome, culminating in the public insult offered to Roman ambassadors; the second<sup>4</sup> that it was due to the strategic position of the city, which constituted a threat to Rome's control of Greece. There is no hint, either in Cicero or in any other ancient writer, of any commercial motive. The more recent modern discussions of the problem tend to accept this ancient view and to attribute the destruction of Corinth to a determination on the part of the Senate to put an end once for all to any attempt in Greece to break away from Rome's sphere of influence. The choice of Corinth as the victim is explained as due partly to its position as the chief Achaean city and partly to the fact that, being a flourishing commercial city with a constantly changing population, it was a centre for the exchange of subversive ideas and the natural meeting place for all those in Greece who were dissatisfied with Roman rule and preached political doctrines obnoxious to Rome.<sup>5</sup>

The view that the Senate's decision was taken under pressure from the commercial class in Rome was put forward by Mommsen<sup>6</sup> and

<sup>1</sup> Above, p. 60 f.

<sup>2</sup> II, 4, 7.

<sup>3</sup> *Leg. Manil.* 11; *Nat. Deor.* III, 91.

<sup>4</sup> *Off.* I, 35; III, 46; *Leg. Ag.* II, 87.

<sup>5</sup> *C.A.H.* VIII, 304; Frank, *R. Imp.* 228; Tarn, *Hell. Civ.* 229; Rostovtzeff, *Hell. World*, 1242; Hatzfeld, *Traf.* 373; Ferguson, *Hell. Ath.* 329; Gelzer in *Hermes* LXVIII (1933), 142 f.; Pais, *Hist. Rom.* 591, etc.

<sup>6</sup> *Hist. Rome*, III, 272 f.

has been accepted by some subsequent writers.<sup>1</sup> We may agree with the more recent writers that the commercial class was not, at this time, strong enough to influence senatorial policy decisively, and that the decision to destroy Corinth must, therefore, have been taken largely on political grounds, though we have no means of assessing to what extent the senators were subjected to lobbying by business interests. There is also in the decision an element of exasperation. One of the severest critics of Rome's policy in Greece, M. Colin,<sup>2</sup> admits that, up to this time, the Romans had shown extraordinary patience with the Greeks. The outbreak, following upon the dangerous situation just overcome in Macedonia, of separatist movements in Greece must have sorely tried this patience, and the natural result was a determination to teach the Greeks a lesson in obedience.

Yet, when we have considered all the arguments against a commercial motive for its destruction, there remains the inescapable fact that Corinth was a great trading city and that its destruction did greatly help the development of Rome's new free port of Delos, and consequently the commercial interests of the Italians settled there. Moreover, as we have seen, the Senate was now alive to the importance of commerce as an element of national prosperity. It may be, therefore, that, though the main motive for the destruction of Corinth was political and strategic, its economic effects were not unforeseen by the Senate.

The destruction of Carthage, almost contemporaneous with that of Corinth, appears to modern eyes even less defensible, because the war which led up to it was deliberately provoked by the Romans. From the moment they realized that their victory in the Second Punic War had not led to the complete ruin of Carthage, they showed, by their persecution of Hannibal and their encouragement of the aggressive designs of Massinissa, that they were obsessed by a fear that their old enemy might again be strong enough to become their rival. The ancient evidence all clearly reveals that Roman policy was thereafter directed towards the complete subjugation of Carthage, the only recorded difference of opinion being about the means by which this could be best accomplished. One section of the Senate, led by Scipio Nasica, held that constant watchfulness was sufficient, whereas the others, whose spokesman was Cato, believed that nothing short of the destruction of the city, or at least its removal from its

<sup>1</sup> Lange, *R. Alt.* II, 330; Heitland, *Rom. Rep.* II, 157; Colin, *Rome et la Grèce*, 640; P.-W. s.v. *Korinthos*.

<sup>2</sup> *R. et la Grèce*, 607 f.

present site, could ensure the future security of Rome.<sup>1</sup> There is no hint in ancient authorities of any commercial motive, though there is plenty of evidence that Italian business men were active in North Africa not long after the destruction of Carthage.<sup>2</sup> It has been left for modern historians to suggest that Roman capitalists played an important part in the Senate's decision.<sup>3</sup> The most likely theory is that, as in the case of Corinth, the Senate's decision was taken primarily for political and strategic reasons, but that the economic consequences of their action were not unforeseen.

The Senate's adoption of a forward policy in the second half of the second century B.C., after its long period of inactivity, is, as we have seen, partly explicable as due to the mere pressure of external events. But we may also attribute it in part to the fact that the Senate now felt itself better able to cope with the problem of controlling the administration of the provinces. A long series of scandalous acts of oppression, especially in Spain, had shown the more humane and far-sighted among the senators that some means must be found of bringing extortionate or corrupt governors to book. They finally succeeded, in 149 B.C., in establishing the *Quaestio de Repetundis*, a permanent court to deal with cases of extortion in the provinces. The fact that the jurors in this court were chosen from the Senate gave that body confidence that they could exercise effective control over any recalcitrant governor. Governors, in their turn, could be relied upon, as a rule, to keep a close watch on the activities of business men in their provinces. It looked, therefore, as though the Senate could deal effectively with any possible challenge to its supremacy abroad.<sup>4</sup>

Emboldened by their success in tackling one serious abuse, the more progressive elements in the Senate, led by Scipio Aemilianus, determined to attempt a solution of the even more pressing and dangerous problem of the decline of Italian agriculture. In Sicily the accumulation of large estates in the hands of wealthy men, many of whom were of equestrian rank, had already created a situation with which the successive governors found it impossible to cope. Bands

<sup>1</sup> Polyb. XXXVII, 1 f.; Livy, *Epit.* 48; 49; Florus, 1, 31, 4; Orosius, IV, 23, 8; Cicero, *Tusc.* III, 51; Sallust, *Hist.* I, 11 (Maur.); Pliny, *Nat. Hist.* XV, 74; Plut. *Cato Mai.* 27; Appian, *Pun.* 68 f.; Diod. Sic. XXXIV-XXXV, 33, 3 f.; Zonaras, IX, 26 f. Cf. Cicero, *Sen.* 18; Val. Max. VIII, 15, 2; Vell. Pat. I, 13, 1.

<sup>2</sup> Fenestella ap. Sueton. *Vit. Terent.*; Sallust, *Jug. passim*. Cf. above, p. 61 f.; below, p. 116 f.

<sup>3</sup> Mommsen, *Hist. Rome*, III, 239 f.; 257 f.; Lange, *R. Alt.* II, 327 f.; Heitland, *R. Repub.* II, 165. For the opposite view see C.A.H. VIII, 476; Bloch et Carcopino, *Hist. Rom.* 134 f.; Gsell, *Af. du Nord*, III, 328 f.; Haywood in Frank, *Econ. Surv.* IV, 6 f.; Rostovtzeff, *R. Emp.* 492, n. 15; Frank, *R. Imp.* 234 f.

<sup>4</sup> See especially W. S. Ferguson in *J.R.S.* XI (1921), 86 f. Cf. above, p. 57 f.

of slave herdsmen roamed the countryside terrorizing the local population. Their owners, the landlords, refused to do anything to control them or to permit any interference by the Roman governor. The result was the dangerous and costly slave revolt of 135 B.C.<sup>1</sup> Similar conditions prevailed in parts of Italy and there was every probability that similar revolts might occur there. Believing, apparently, that the Senate would recognize the necessity for some action to meet this danger, C. Laelius brought forward, in 140 B.C., a land law designed to limit the growth of large estates in Italy. To his surprise, his proposal met with violent opposition from a majority of the Senate. He and his associates had evidently exaggerated the willingness of senators to sacrifice their own interests to those of the people as a whole. They had now to choose between loyalty to their own class and open espousal of the cause of the dispossessed farmers of Italy. They chose the former course. The law was dropped, and Laelius, according to the sly suggestion of Plutarch,<sup>2</sup> thus earned his famous cognomen of Sapiens.

But others were less easily silenced. A small group of senators, composed largely of men who were hostile to Scipio,<sup>3</sup> gave their support to the young and energetic reformer Ti. Gracchus. The latter, horrified by what he had seen of the progressive depopulation of the Italian countryside and influenced by the democratic ideas of his Greek tutors, decided to challenge the Senate's decision by an appeal to the people. His famous agrarian law, drafted with the help of such prominent senators as P. Mucius Scaevola, P. Licinius Crassus and Appius Claudius, was forced through the Assembly in spite of fierce opposition by the Senate.

This direct challenge to the Senate's control of the public land was not in itself revolutionary or even new. In carrying his law before the Assembly, Gracchus was merely repeating a manœuvre already successfully carried out by C. Flaminius a century earlier. But when, in the course of his efforts to force the bill through, he had recourse to tactics of doubtful legality, such as the deposition of his colleague Octavius and his subsequent attempt to get himself re-elected to the tribunate, he lost the support of all but a handful of the senators who had previously been on his side. Moderates like Mucius Scaevola were not prepared to throw in their lot with revolution.

It is unnecessary here to repeat the well-known story of the

<sup>1</sup> Diod. Sic. XXXIV-XXXV, 2, 31. Diodorus is in error in describing the Equites as jurors at that date.

<sup>2</sup> Ti. Gracch. 8, 3.

<sup>3</sup> See Münzer, *Adelsp.* 257 f.

subsequent career of Ti. Gracchus, culminating in his murder by a mob headed by senators. We are concerned only to point out that his career split Rome into two bitterly hostile factions, the one supporting, the other opposing him. His opponents are described by Plutarch and Appian simply as 'the wealthy' or 'the men of property'. Other ancient writers are more explicit and speak of 'senators and members of the equestrian order'.<sup>1</sup> While we may assert with confidence that the terminology of Appian and Plutarch is more exact, since the term *equester ordo* is an anachronism when applied to this period, there is no reason to doubt that, in resisting the agrarian law, the Senate had the support of many wealthy business men. Some of the landowners of Sicily already mentioned were of this type,<sup>2</sup> and, since land was still the safest form of investment, the same is probably true of other provinces and of Italy itself.<sup>3</sup> Moreover, every acre of public land disposed of under Tiberius' law meant a loss of revenues to the state and a consequent loss of profit to those *publicani* responsible for the collection of the tithes and *scriptura* of Italy.<sup>4</sup>

For these reasons, therefore, and because of a natural mistrust of revolutionary movements, the business men supported the Senate against Ti. Gracchus. But that support was due entirely to the fact that the agrarian law threatened their economic interests. Nor was it whole-hearted, since these business men had several reasons for resenting the power wielded by the Senate. In particular they disliked the Senate's control of the state finances, and they cannot have failed to see, in the establishment of the extortion court, another example of the determination of that body to maintain its grip on the provinces. There were, therefore, elements in the Gracchan policy which would have their approval. Senatorial control of finance was affected to some extent by the Gracchan land law, but a more serious threat to it came as a result of the death of Attalus of Pergamum in 133 B.C. Attalus bequeathed his personal property and his kingdom to Rome, and Ti. Gracchus at once proposed to use the contents of his treasury to finance the agrarian law, either by providing tools and equipment for the new allotments<sup>5</sup> or by compensating those who failed to get an allotment.<sup>6</sup> How far this scheme was carried into effect we do not know,<sup>7</sup> but it certainly raised the important question of whether

<sup>1</sup> Plut. *Ti. Gracch.* 20; Appian, *Civ.* I, 12 f.; Vell. Pat. II, 3, 2; Livy, *Epit.* 58; Sallust, *Jug.* 42. 1.

<sup>2</sup> Diod. Sic. XXXIV-XXXV, 2-3.

<sup>3</sup> See M. O. B. Caspari in *Klio* XIII (1913), 184 f.; Hatzfeld, *Traf.* 225 f.

<sup>4</sup> See above, p. 52 f.

<sup>5</sup> Plut. *Ti. Gr.* 14.

<sup>6</sup> Livy, *Epit.* 58; *De Vir. Illust.* 64; Orosius, V, 8, 4.

<sup>7</sup> See above, p. 66.



the Assembly was to be allowed to interfere in a matter of finance which would normally have been dealt with by the Senate. The legacy of Attalus became a vital political issue. It is obvious that this was a matter which would greatly interest the *publicani* and other business men, since there were bound to be considerable revenues from the new province and many opportunities for commerce there.

Fortunately for the Senate, this issue did not at once become crucial because Asia was immediately plunged into civil war by the activities of the pretender Aristonicus. At the same time, the murder of Ti. Gracchus robbed the opposition of its leader and, for the moment, of a policy. There are indications that the Senate tried to make use of this breathing space. By making concessions to the more moderate among the followers of Ti. Gracchus, it may have hoped to retain its political and financial ascendancy. The special commission set up to punish those who had supported Gracchus appears to have concentrated upon getting rid of those of them who had advocated the political rather than the economic aims of the reformer, notably his Greek advisers. Those who had merely supported his agrarian policy were left unmolested. Tiberius' place on the agrarian commission was filled by the election of P. Licinius Crassus, and the work of redistributing the public land was allowed to proceed and perhaps even facilitated.<sup>1</sup> No doubt this line of action was more or less forced upon the Senate. To abrogate the agrarian law would have been to invite revolution. But the Senate rigidly and successfully opposed any attempt by the Gracchans to carry out major political changes. Thus Carbo's proposal to legalize re-election to the tribunate in 131 B.C. and Flaccus' bid, in 125 B.C., to win Italian support by offering them the Roman citizenship were both effectively blocked.

Within the Senate itself, also, the struggle for power went on behind the scenes. It was a victory for the Gracchans when their nominee, P. Licinius Crassus, succeeded, by very dubious methods, in getting himself appointed to the command against Aristonicus.<sup>2</sup> Had he defeated Aristonicus, he would have been bound to play an important part in deciding the form of government in the new province. Luckily for the Senate, he was killed in battle there, and when Aristonicus was finally defeated, in 130 B.C., it was a commission of senators which organized the province.

The death of Crassus was a heavy blow to the Gracchans, and their

<sup>1</sup> See Bloch et Carcopino, *Hist. Rom.* 223 f.

<sup>2</sup> Cicero, *Phil.* XI, 18; Münzer, *Adelsp.* 261 f.

main hope of revival now rested upon C. Gracchus, who was still going through the period of military service preparatory to entry on his official career. It was probably no accident that his military service was prolonged for two years beyond the normal ten, or that, when finally he was elected quaestor in 126 B.C., he was posted to the unhealthy island of Sardinia and kept there for twice the normal period of duty. The longer he was kept away from Rome the better for the Senate, and the fevers of Sardinia might do for him what the clubs of the senators had done for his brother.

When finally Gaius returned to Rome (in 124 B.C.) in time to surrender his public horse and be admitted to the Senate by the censors of that year, an attempt was made to discredit him and prevent him from entering on his political career by charging him with neglect of duty. His vigorous and successful defence of himself before the censors was his first victory over his senatorial opponents.<sup>1</sup>

We may be sure that the *publicani* and other business men were watching these political manœuvres and waiting to see which of the rival factions would earn their support. Whether the politicians were conscious of this scrutiny we cannot be sure, but there are indications that they were. We have seen that the Gracchans were aware of the importance of Asia in this respect and, if we are to believe Plutarch<sup>2</sup> and Dio Cassius,<sup>3</sup> Ti. Gracchus had also seen the significance of the court of extortion and had already proposed to give to the business men the judicial powers later actually conferred on them by his brother.<sup>4</sup>

From the Senate the business men probably expected concessions in Asia and also in Sicily, whose organization had been remodelled by Rupilius, the consul of 132 B.C., after his suppression of the slave revolt. Unfortunately, the evidence about the arrangements made in these two provinces is scanty, but from the little we know of them it would appear that no great concessions were made.<sup>5</sup>

The business men did, however, gain from a law, probably passed in 129 B.C. or shortly after, to change the composition of the eighteen centuries of *equites equo publico*. In Cicero's *De Republica*,<sup>6</sup> Scipio Aemilianus refers to a 'law for the giving up of public horses' (*plebiscitum reddendorum equorum*) which he describes as a 'new kind of bribe'

<sup>1</sup> Above, p. 35.

<sup>2</sup> *Ti. Gracc.* 16, 1.

<sup>3</sup> *Frag.* 82, 7.

<sup>4</sup> This evidence is, however, suspect and is generally regarded as a transference to Tiberius of the policy of Gaius. See below, p. 108 f.

<sup>5</sup> For Asia see above, p. 66 f. For Sicily see Carcopino, *Loi de Hiéron*, 70 f. There is no evidence for the opinion expressed by Bloch et Carcopino, in *Hist. Rom.* 224, that Rupilius' arrangements in Sicily favoured the business men. Cf. *C.A.H.* IX, 16; above, p. 58.

<sup>6</sup> IV, 2, 2.

(*nova largitio*). The proposal was that senators who held the public horse should surrender it—i.e. that membership of the equestrian centuries should, in future, be incompatible with membership of the Senate.<sup>1</sup> The date of this proposal is fixed by the dramatic date of the *De Republica* and it almost certainly became a law.<sup>2</sup> Difficulties arise, however, when we seek to explain its purpose. Why does Scipio describe it as a bribe? Who was being bribed and by whom? It is usual to attribute the proposal to the Gracchans, on the ground that it fits their general policy of causing a split between Senate and business men.<sup>3</sup> But the mildness of Scipio's criticism—he merely calls it foolish—makes it quite possible that the law was sponsored, or at least not strongly objected to, by the Senate itself. Those who would gain most by such a law were the well-to-do business men who would replace senators in the equestrian centuries, for membership of those centuries conferred not only social prestige but also an important vote in the Centuriate Assembly and access to the first stage of a senatorial career. It is probable, therefore, that this was a bribe offered by one or other of the opposing factions to gain the support of the business men.<sup>4</sup> By using the word *nova*, moreover, Scipio would seem to imply that this was not the only bribe being offered to them at this time.

Such concessions, however, were on a small scale. It was C. Gracchus who made the first serious bid for the permanent support of this element of the population. In his two tribunates (123–122 B.C.), he pursued a policy deliberately designed to destroy the Senate's control of Rome's government. With the bitter lesson of his brother's failure and death always in his mind, he determined to create for himself a following sufficiently large and loyal to ensure that he could carry out his programme during his lifetime and, if possible, leave behind a machinery of government capable of superseding the Senate.

Since he intended to rely upon the votes of the assemblies, his first task was to secure the backing of the urban populace and as many as possible of the rural voters. Hence the corn law and the re-enactment of the agrarian law of Tiberius. These, together with minor concessions made to citizens serving in the army, would assure him of a majority in the Tribal Assembly. In the Centuriate Assembly, however, his position was less secure, since here, in spite of the changes

<sup>1</sup> See above, p. 15 f.

<sup>2</sup> See the arguments in Stein, 1 f.

<sup>3</sup> See, e.g., Stein, *loc. cit.*; Mommsen, *Staatsr.* III, 505 f.; Belot, I, 213 f.; C. G. Zumpt, 22 f.; Madvig, *Opusc. Acad.* 58 f.

<sup>4</sup> For a different view see Madvig and Belot, *loc. cit.*

introduced in the third century,<sup>1</sup> the richer men still had an advantage in the voting. An isolated and obscure passage of Sallust<sup>2</sup> suggests that he made some attempt to alter the method of voting in this Assembly, but the surest way of winning control of it was by having the support of the wealthier voters—that is, of the business men, since it was obvious that those belonging to senatorial families would resist him to the end. Gaius, therefore, set himself to outbid the Senate for the favour of the business men. With brilliant insight, he saw that this could best be done in the two spheres in which they were most irked by senatorial control, those of finance and provincial administration. It was all to the good, from his point of view, that these happened also to be the spheres in which the heaviest blows could be struck at the power of the Senate in general.

The most obvious point of attack was the new province of Asia. The practice of sending out a senatorial commission to organize a new province was based on precedent<sup>3</sup> and had been adopted for Asia after the defeat of Aristonicus. But Asia was different from other provinces in that it was the only one yet gained by inheritance. Since the Roman people were the beneficiaries under the will of Attalus, it cannot have been difficult for Gaius to convince them that they, and not the Senate, had the right to decide the fate of Asia. The lines on which he argued this proposition can be seen clearly in a fragment of one of his speeches preserved by Gellius.<sup>4</sup> Discussing a proposal dealing with Asia, he accuses both the opponents and the supporters of the bill of having been bribed by Asiatic kings, and claims to be himself the champion of the revenues of the Roman people. This was an appeal to the cupidity, not only of the whole people, but also especially of the tax farmers and other business men, who were particularly interested in the revenues. Gaius then brought forward his own *Lex de Provincia Asia*, which laid it down that the tribute of the new province should take the form of a tithe, as in Sicily.<sup>5</sup>

It has been held that, in substituting a tithe for the more normal *stipendium*, Gaius was merely aiming at greater efficiency.<sup>6</sup> Asia was a fertile province and Gaius, as the declared champion of the revenues, would feel compelled to extract from it the maximum of profit for Rome. To fix a *stipendium* which would achieve this object and at the same time would not bear too heavily upon the people of Asia

<sup>1</sup> See above, p. 39 f.

<sup>2</sup> *Ad Caes.* II, 8.

<sup>3</sup> See above, p. 57 f.

<sup>4</sup> XI, 10. Cf. H. Hill in *C.R.* LXII (1948), 112 f.

<sup>5</sup> See above, p. 67 f.

<sup>6</sup> See, e.g., *C.A.H.* IX, 64 f.; Frank, *R. Imp.* 245 f.

was almost impossible. A tithe, on the other hand, would be fair to both sides, provided only that it was properly administered. It was in respect of the administration of the tithe that Gaius' arrangements were influenced by political considerations. Given the absence of a Civil Service capable of organizing it, the collection of the tithe had to be farmed, but there was a choice of methods even here. Like Sicily, Asia had already a system of tithes,<sup>1</sup> so that it would have been possible for the Roman tithe to be collected locally. Gaius rejected this method and, by laying it down that the tithe be farmed in Rome, ensured that the contracts would fall to Roman *publicani*. Though he cannot have foreseen the abuses to which this system would lead, it would be perverse to deny that, in making this decision, he deliberately sought to please the *publicani* and win their support.

The Asiatic law fulfilled the double purpose of vastly increasing the economic power of the Middle Class and at the same time greatly weakening senatorial control of finance. For, although the Asiatic tithes were supervised by the censors and so, ultimately, by the Senate, the decision as to what form the revenues of Asia were to take had been made by the Assembly. The increase in commerce between Asia and Italy consequent upon this law may have been responsible for the imposition by C. Gracchus of new customs duties in Italian harbours. It has even been suggested that the new duties were imposed in the Asiatic law itself and not in a separate measure. The revenues from those duties would, of course, help to swell the profits of the publicans responsible for their collection.<sup>2</sup>

Two of the principal means whereby the Senate controlled the provinces were its right to select their governors and the employment of senators as jurors in the extortion court.<sup>3</sup> Of these the former was an ancient privilege which C. Gracchus could not altogether destroy. All that he could do was to ensure that the people had more influence in the choice of governors by compelling the Senate to nominate the consular provinces before the consuls were elected.<sup>4</sup> Jury service, however, was a much more recent senatorial privilege and one, moreover, whose sinister possibilities were only now becoming apparent. So far as is known, the only permanent law-court then in existence was the extortion court<sup>5</sup>; but there was every probability

<sup>1</sup> See above, p. 67, n. 5.

<sup>2</sup> Above, p. 53. Corradi, *C. Gracco e le sue leggi*, quoting Fraccaro.

<sup>3</sup> Above, p. 101.

<sup>4</sup> Sallust, *Jug.* 27; *C.A.H.* IX, 63 f.

<sup>5</sup> *C.A.H.* IX, 75 f. For a different view see Greenidge, *Legal Proc.* 420 f.; Lengle, *Strafrecht*, 25 f.; Strachan-Davidson, *Problems*, II, 20 f. Cf. below, p. 149.

that similar courts would be set up, as indeed they were later, to deal with other offences. Already C. Gracchus was able to point to three recent cases in which senatorial governors had been acquitted in spite of strong evidence of guilt.<sup>1</sup> Moreover, special courts like that set up to try the adherents of Ti. Gracchus had been staffed by senators whose political bias had been obvious.<sup>2</sup>

It was therefore easy for C. Gracchus to argue that senators should at least not possess a monopoly of jury service. Among the conflicting ancient references to his judicial reforms there is some evidence that his first move was merely a cautious attempt to break that monopoly. Plutarch and Livy record a proposal of his to increase the number of the Senate by the addition of 300 or 600 Equites.<sup>3</sup> If, as is probable, the Equites referred to were members of the eighteen equestrian centuries, the proposal would appear to be linked with the *plebiscitum reddendorum equorum* discussed above.<sup>4</sup> By that law, as we have seen, the proportion of non-senators in the equestrian centuries had been increased, so that Gracchus could count upon at least some of his new senators being drawn from outside the senatorial class. At the same time, his proposal could not be regarded as revolutionary, since there already existed precedents for selecting new senators from the equestrian centuries.<sup>5</sup>

Whatever may be the truth about this first proposal, however, it is undeniable that C. Gracchus ultimately followed a much more drastic policy. Realizing, no doubt, that the senators would never consent to any diminution of their absolute control of the jury-courts, he determined to deprive them of it completely. To this end, he forced through the Assembly a law by which senators were excluded from the juries and their place was taken by men of equestrian rank.<sup>6</sup> There is overwhelming evidence that this was the effect of his famous judiciary law. What is not so clear is by what means this result was achieved. Although, as we have seen, there existed in Rome before

<sup>1</sup> Appian, *Civ. I*, 22.

<sup>2</sup> For special courts see Strachan-Davidson, *Problems*, I, 225 f.; Greenidge, *Legal Proc.* 380 f.; Mommsen, *Strafrecht*, 172 f.; 196 f.; 256 f.; above, p. 104; below, p. 119 f.

<sup>3</sup> Plut. *C. Gracch.* 5 f.; *Comp. Ag.* 2, 1; Livy, *Epit.* 60.

<sup>4</sup> p. 105 f.

<sup>5</sup> Above, p. 41; below, pp. 133 f., 147; Plutarch (*Ti. Gracch.* 16. Cf. Macrobius, III, 14, 6-7; Dio Cass. *Frag.* 82, 7) may be right in regarding this proposal as a revival of one already put forward by Ti. Gracchus. So mild a policy would well suit the more moderate elder brother. For different views see Marsh, *R. World*, 53 f.; Strachan-Davidson, *Problems*, II, 77 f.; Zumpt, *Criminalrecht*, II, 1, 57 f.; Stein, 14 f.

<sup>6</sup> Cicero, *Verr.* I, 38; II, 3, 168; Ps.-Ascon. pp. 103; 145 (Or.); Appian, *Civ. I*, 22; Florus, I, 47, 9; II, 1, 5, 3; Diod. Sic. XXXIV-XXXV, 25, 1; XXXVII, 9; Pliny, *Nat. Hist.* XXXIII, 29 f. Cf. Dio Cass. *Frag.* 82, 7; Vell. Pat. II, 6, 3; 13, 2; 32, 3; Varro *ap. Non. s.v. Bicipitem*, p. 728 (Lindsay); Tacit. *Ann.* XII, 60; Cicero, *De Leg.* III, 20.

the time of C. Gracchus several sections of the population which would naturally form part of an equestrian Middle Class, it would be necessary to define that class more precisely before it could be used for jury service.<sup>1</sup>

Fortunately we possess, in the fragmentary *Lex Acilia*, a law which either was the actual Gracchan judiciary law itself or was closely linked with it.<sup>2</sup> Dealing with the procedure to be followed in trials for extortion, the *Lex Acilia* contains sections (12-18) which lay down the qualifications and disqualifications for service on the juries. The disqualifications are designed to exclude not only senators, ex-senators and the fathers, brothers and sons of senators, but also minor magistrates, such as the military tribunes of the first four legions,<sup>3</sup> the *tresviri capitales* and the agrarian commissioners, who would be expected to proceed by way of the higher magistracies to seats in the Senate. In these sections the author of the law was obviously trying to define the senatorial class, and it is not surprising, therefore, that the categories he includes closely resemble those selected for admission to the Senate by M. Fabius Buteo, the dictator of 216 B.C.<sup>4</sup> By an unlucky accident, those sections of the law which contained the positive qualifications for jury service are defective and so we are reduced to conjecture. Assuming, as we must, that the missing sections in some way defined the equestrian jurors who, as we have seen, replaced the senators, we have a choice between two alternatives. Either the law referred to members and/or ex-members of the equestrian centuries, who would most properly be described, at this period, as *equites* or *equester ordo*,<sup>5</sup> or it gave some definition which would cover the whole equestrian Middle Class as it later existed.<sup>6</sup>

There are difficulties connected with both hypotheses, but the weight of the ancient evidence is very definitely on the side of the second. Where our authorities depart from such vague terms as *equites* or *equester ordo*, they use terminology which can only apply to the Middle Class as a whole. They identify the jurors, for instance,

<sup>1</sup> Above, p. 45 f.

<sup>2</sup> Bruns, *Font.* p. 53 f. See Balsdon in *Papers Brit. Sch. Rome*, XIV (1938), 98 f.; C.A.H. IX, 75 f.; 892 f.; Mommsen, *Ges. Schrift.* I, 1 f.; Strachan-Davidson, *Problems*, II, 6 f.; Hitzig, *Die Herkunft*, 49 f.

<sup>3</sup> Above, p. 28.

<sup>4</sup> Above, p. 41.

<sup>5</sup> So Mommsen, *Ges. Schrift.* I, 28; *Staatsr.* III, 531, n. 1; *Strafrecht*, 209 f.; Strachan-Davidson, *Problems*, II, 84 f.

<sup>6</sup> So C.A.H. IX, 75 f.; Stein, 20 f.; Greenidge, *Legal Proc.* 434; Zumpt, *Criminalrecht*, II, 1, 54 f.; Gelzer, *Die Nobilität*, 7 f.; etc.

with the *publicani*, or at least assume their connection with the administration of state revenues.<sup>1</sup> When, bearing this in mind, we seek to fill the gaps in the *Lex Acilia*, we have to decide how the law would define this larger Middle Class. The mere title *equites* (or *equester ordo*) will not do because, even if, as has been suggested above,<sup>2</sup> popular language did apply it to the Middle Class before the Gracchi, it lacked precision. Moreover, the Elder Pliny tells us that the Gracchan jurors were simply called *iudices* and that the title *equites* did not become established until the consulship of Cicero<sup>3</sup> (63 B.C.). There is only one feature common to all the various elements which went to make up the new Middle Class—their wealth—and it is therefore practically certain that the criterion applied by C. Gracchus was one of property. He must have fixed, for the first time in all probability, an equestrian census amount.<sup>4</sup> The earliest definite evidence of the existence of such a *census equester* belongs to the year 76 B.C.,<sup>5</sup> but the gap is not surprising if we accept Pliny's evidence about the use of the title *equites*. The Gracchan census amount would not be called *census equester*.

It may be assumed, then, that the *Lex Acilia* contained a census figure to define the new jurors. It is usual for those who accept this theory to assume that the amount was that of 400,000 HS. which we are told defined an *equus* for the purpose of the *Lex Roscia Theatralis*.<sup>6</sup> There can, however, be no certainty on this point, especially as some ancient authors seem to attribute the fixing of that figure to Roscius himself.<sup>7</sup> The Gracchan census amount is unknown.

Thus C. Gracchus had succeeded in defining the Middle Class, in enormously increasing its sources of wealth, and in providing it with a means of making its influence felt in politics. What he failed to do, however, was to persuade its members to give him the steady support which he needed to complete his programme of reforms. While it is true, as we shall see, that there were many points of difference between

<sup>1</sup> Cicero, *Verr.* II, 3, 94; 168; Pliny, *Nat. Hist.* XXXIII, 34; Florus, I, 47, 9; II, 1, 4 f.; II, 5, 3. Cf. Appian, *Civ.* I, 22, where the use of the term *οἱ καλούμενοι ἱππεῖς* implies the whole Middle Class. The same implication also underlies the whole history of the use of the extortion court against governors who displeased the business men in their provinces. See below, p. 113 f. *al.*

<sup>2</sup> p. 50.

<sup>3</sup> *Nat. Hist.* XXXIII, 34. Cf. *Gracchani iudices* in Cicero, *Brutus*, 128. The fact that Cicero used the title *equites* before his consulship (e.g. in *Verr.* I, 38) does not conflict with Pliny's statement, since Pliny uses the word *stabilivit*.

<sup>4</sup> See above, p. 18 f.

<sup>5</sup> Cicero, *Rosc. Com.* 42. Cf. *id.* *Ad Quint.* I, 2, 6 (59 B.C.); *Ad Fam.* IX, 13, 4 (46–45 B.C.), etc.

<sup>6</sup> See below, p. 160.

<sup>7</sup> Horace, *Epist.* I, 1, 57 f.; Juvenal, III, 152 f.; XIV, 323 f.; Scol. Juv. III, 155. It is noteworthy that the *recuperatores* mentioned in the Agrarian Law of 111 B.C. are defined simply by their census class—*quei primae classis sient* (v. 37).



that class and the Senate, upon some of which there was no means of reconciling them, they had this in common, that they were men of property who could not contemplate the possibility of social revolution. When, therefore, C. Gracchus temporarily lost the support of the masses, mainly because of his proposals about the franchise, and the Senate took courage to strike at him by violence as it had against his brother, his murderers included men of the Middle Class as well as senators.<sup>1</sup>

<sup>1</sup> Plut. *C. Gracch.* 14, 3; Sallust, *Jug.* 42.

## CHAPTER

# THE MIDDLE CLASS IN POLITICS

## II. AFTER THE GRACCHI

WITH the death of C. Gracchus and the subsequent purge of his supporters, the Senate recovered control of the machinery of government. But the machinery was no longer the same and the control was far less secure. The use made by the Gracchi of the assemblies and the tribunate had created in the mass of the people a consciousness of their power to thwart the will of the governing class. As a consequence, the Senate dare not repeal what it no doubt considered the most subversive of all the Gracchan legislation, the corn law; and even the agrarian law, though it does not appear to have had any great popular appeal, had to be undone only partially and gradually.

More dangerous still to senatorial predominance was the immense power and importance which C. Gracchus had conferred upon the Middle Class. In the provinces, the Senate could no longer rely on senatorial governors to keep in check the rapacity of the *publicani* and other business men. For the extortion court was now staffed by equestrian jurors and the publicans were easily the most important section of the equestrian order. They were even sometimes identified with the equestrian order.<sup>1</sup> 'When the equestrian order provided the juries', says Cicero, 'dishonest and extortionate governors treated the *publicani* in their provinces with deference. . . . This practice did not benefit the guilty so much as it harmed the numerous other governors who did anything disadvantageous or distasteful to the equestrian order'. To collusion with bad governors, that is, the tax-gatherers added persecution of those who attempted to protect the subject peoples from exploitation.<sup>2</sup>

In Rome itself, the problem of the relations between the senatorial and equestrian classes became crucial. For so long treated as inferiors by the senatorial aristocracy, the Middle Class now acquired, in addition to their great economic and political power, a unity they had never before known and a sense of their own social importance. As we have seen, they adopted the title of Equites and so became, as

<sup>1</sup> Cicero, *Verr.* II, 2, 173 f.; 3, 168; *Dom.* 74. Cf. *id. Planc.* 23; 34; *Ad Quint.* II, 11, 2; Livy, *Epit.* 70; Tacit. *Ann.* IV, 6; Appian, *Civ.* II, 13, etc. Above, p. 101.

<sup>2</sup> Cicero, *Verr.* II, 3, 94. Cf. below, p. 130 f.; Deloume, *Les Manieurs*, 265 f.

Pliny tells us, a *tertium corpus* inserted between Senate and people.<sup>1</sup> From the cavalry they also took over a number of insignia, notably the gold ring, which came to be recognized as indicating membership of the Middle Class.<sup>2</sup> They even acquired a kind of religious background to their social pretensions through the fortunate coincidence that Castor and Pollux, traditionally the patron gods of the cavalry, were also the patrons of commerce.<sup>3</sup>

C. Gracchus had hoped to use this formidable new element in the state as a weapon against the Senate. Their desertion of him showed clearly that they would give their support only to policies which favoured their own interests. An attempt, for instance, to repeal the Gracchan judiciary law would inevitably have caused them to throw all their weight against the Senate. No such attempt, therefore, was made. There are, indeed, signs that some senators at least favoured a policy of collaboration with the Middle Class at this period.

One test of the sincerity of such collaboration was bound to be how far the interests of overseas commerce were watched over by the government. Recently the situation in Southern Gaul had been causing anxiety. Massilia, the ancient ally and friend of Rome, had begun to show signs of succumbing to the pressure of the Gallic tribes which surrounded her.<sup>4</sup> In addition to giving her military aid in 125-121 B.C., Rome found it necessary, in 123 B.C., to annex the Balearic Islands off the coast of Spain in order to check the spread of piracy which had until then been kept down by Massilia.<sup>5</sup> The annexation of Gallia Narbonensis in 121 B.C. was soon followed by the suggestion to found a 'Gracchan' colony at Narbo. Where this idea originated is not clear, since the Gracchan party was in no position to exert political pressure. But the fact that the proposed colony was to occupy an excellent coastal site, well placed to compete with Massilia for the trade of Gaul, indicates that its supporters had in mind more than the mere provision of land for Roman settlers. It is

<sup>1</sup> Above, p. 47; Pliny, *Nat. Hist.* XXXIII, 34. Pliny's statement is confirmed by the usage of Cicero and other ancient writers. The frequent application, especially by Cicero, to members of the equestrian order of the epithet *splendidus* makes it almost an equestrian title. It was not, as Belot says (I, 214 f.), restricted to members of the equestrian centuries. See, e.g., Cicero, *Rosc. Am.* 140; *Prov. Cons.* 11, *et saepe*. The title *princeps equestris ordinis*, which has sometimes been regarded as an official one (e.g. by Tyrrell and Purser on Cicero, *Ad Fam.* XI, 16, 2), does not seem to have acquired in the republican period the significance it had under the Emperors. See, e.g., Cicero, *Flacc.* 4.

<sup>2</sup> See Appendix III.

<sup>3</sup> See especially Albert, *Le culte de C. et P.* Cf. Roussel, *Délos*, 229 f.; Helbig in *Hermes* XL (1905), 101 f.

<sup>4</sup> See above, p. 64.

<sup>5</sup> Jullian, *Hist. de la Gaule*, III, 33 f.; Ormerod, *Piracy*, 166.

probable, therefore, that the project, if not actually initiated by them, had the backing of the business class.<sup>1</sup> The Senate, on the other hand, resisted it fiercely but was overruled, and the colony was founded in 118 B.C. It is significant that the most prominent supporter of the proposal, who was also one of the two men appointed to supervise the foundation of Narbo,<sup>2</sup> was L. Licinius Crassus, a young senator who had, in the previous year, inaugurated a brilliant oratorical career by prosecuting the renegade Gracchan C. Papirius Carbo. Carbo, it is true, was an obvious victim for any young orator seeking a reputation, since his transfer of allegiance from Gracchus to the Senate had been a blatant act of treachery and his new allies cannot have been inclined to trust him.<sup>3</sup> But the fact that Crassus undertook the prosecution would indicate that he was not in sympathy with that conservative section of the Senate which would have protected Carbo as a reward for his services to the senatorial cause. Taken together, these two actions of Crassus reveal him as favouring concessions to the Middle Class and even, perhaps, to the remnants of the Gracchan party. Now Crassus was connected by marriage with the Mucii Scaevolae and, through them, with the moderate aristocrats of the Scipionic Circle.<sup>4</sup> There are, therefore, grounds for believing that his policy was that of a group of moderate senators comparable to that which had at first supported Ti. Gracchus.<sup>5</sup> For the moment, it seems, this group was in the ascendant.

A brief period of truce between the two orders may also be conjectured from the scanty evidence about the activities of the equestrian juries at this time. It is unfortunate that we can be certain of the existence of only one court staffed by the new Gracchan jurors in this period—the extortion court. For offences for which no permanent court was in existence there were two alternative methods of trial—either by the Assembly (*iudicium populi*) or by a special court set up for the purpose. In the former the jury was, of course, the whole body of voters, and in the latter its composition was laid down by the law establishing the court. Thus the above-mentioned trial of Carbo was before a jury but, because we do not know the offence with which he was charged, we do not know the status of the jurors. Similarly, when Marius was tried in 115 B.C. for electoral corruption (*ambitus*), the jury may or may not have consisted of members of the

<sup>1</sup> Diod. Sic. V, 38, 5. Cf. C. H. Benedict in *A.J.P.* LXIII (1942), 38 f.

<sup>2</sup> See Mattingly in *J.R.S.* XII (1922), 230 f.

<sup>3</sup> This appears to have been Crassus' line of argument in his speech for the prosecution. See Cicero, *De Orat.* II, 170; *De Leg.* III, 35.

<sup>4</sup> See P.-W. s.v. *Licinius*, No. 55.

<sup>5</sup> Above, p. 102.

equestrian order.<sup>1</sup> In the next year came the famous trial of three Vestal Virgins for unchastity. After an investigation by the Pontifex Maximus, resulting in the acquittal of two of the accused, a public inquiry was instituted and all three were found guilty. Here again the composition of the jury is not known, but if, as is generally assumed, it did consist of Equites, then the condemnation of the Vestals in spite of the fact that some of their alleged paramours were of equestrian rank would indicate that the jurymen did their work without bias.<sup>2</sup>

So far as we know them, the trials for extortion in this period give no evidence of bias against the Senate on the part of the equestrian jurors. Among those acquitted were two of the leading senators, Q. Mucius Scaevola in 119 B.C. and Q. Metellus, later called Numidicus, in 112 B.C.<sup>3</sup>

The year 111 B.C. saw the passing of the agrarian law which completed the Senate's settlement of the whole agrarian problem raised by the Gracchi. It reveals the same tendency towards compromise with the Gracchans which we have already noted in speaking of Crassus.<sup>4</sup> But this was the end of concessions and compromise. Events in North Africa had probably compelled a settlement of the agrarian situation there such as was embodied in the law of 111 B.C., but the same events also brought about a renewal of political strife in Rome.<sup>5</sup>

Numidia, for long under its kings Massinissa and Micipsa a loyal friend and ally of Rome, had become, since the death of the latter in 118 B.C., the scene of fierce rivalry between Jugurtha, the energetic and able bastard adopted by Micipsa, and Micipsa's son, Adherbal. In 116 B.C. the Senate, invited by Adherbal to take up his cause against Jugurtha, had preferred to seek a compromise by dividing the kingdom between the two rivals—a decision which, though probably influenced by the bribes of Jugurtha, had the merit of avoiding, or at

<sup>1</sup> This depends upon whether or not there was in existence at this date a permanent court for *ambitus*, a matter on which there can be no certainty. See P.-W. *Suppl.* VI, 1372; Greenidge, *Hist. of Rome*, 307; J. Lingle in *Hermes* LXVI (1931), 302 f.; C.A.H. IX, 160; 172; 306. Below, p. 148 f.

<sup>2</sup> The assumption that the jury was equestrian is inconsistent with the theory put forward by Bloch et Carcopino (*Hist. Rom.* 295 f.) that this trial was engineered by the Senate to discredit the equestrian order. Cf. Greenidge, *op. cit.* 312 f.; Münzer, *Adelsp.* 243 f.

<sup>3</sup> See P.-W. *s.vv.* The dates are uncertain. The acquittal of Metellus is more likely to have occurred in 112 B.C. than in 108 B.C., the other suggested date. In the latter year the Middle Class was committed to support of his rival, Marius.

<sup>4</sup> Hardy, *R. Laws and Charters*, 48 f.; Bloch et Carcopino, *Hist. Rom.* 299 f. For the provisions relating to Africa see above, p. 61 f.

<sup>5</sup> The principal source for the account which follows of the political background of the Jugurthine War is Sallust's *Jugurtha*.

least postponing, war and so would please all sections in Rome, not least the Middle Class, whose commercial interests in North Africa could not but suffer in any conflict.<sup>1</sup> The senatorial commission which carried out the partition awarded to Jugurtha the less civilized western half of the kingdom, 'richer agriculturally and in men', and to Adherbal the eastern half, bordering on the Roman province, 'better equipped with harbours and buildings'.<sup>2</sup> It was Adherbal's kingdom, therefore, with its cities and harbours, which was likely to attract Roman business men, and it was with him rather than with Jugurtha that their sympathies lay in the war which followed. Jugurtha, on the other hand, had powerful friends in the Senate. Relying on them to limit the interference of Rome, he set out to oust Adherbal from his kingdom and reunite Numidia under his own rule. For four years Adherbal avoided a conflict by ignoring Jugurtha's deliberate provocations, but at last, in 112 B.C., Jugurtha made a full-scale invasion of Eastern Numidia. Adherbal, defeated in battle, retreated to his capital of Cirta, which was only saved from immediate capture by the efforts of the large numbers of Italians there, who manned the walls and beat off Jugurtha's assault. The city was then laid under close siege. A Roman embassy, sent by the Senate and consisting, according to Sallust, only of young men, was received with courtesy by Jugurtha, who persuaded them that all was well and continued to invest Cirta. A final despairing appeal from Adherbal brought a second, more august, embassy, including the *princeps senatus* M. Aemilius Scaurus, the most successful opportunist of his day. This, too, was deceived by a show of humility on the part of Jugurtha and returned to Rome without achieving anything except to arouse, in the minds of their compatriots, the bitterest suspicion of their good faith. At this point, the Italians in Cirta, convinced apparently that there was no longer any hope of rescue from Rome, persuaded Adherbal to surrender and place himself and them at the mercy of Jugurtha. The latter promptly murdered his rival and all other armed men who fell into his hands, not sparing even the Italians.<sup>3</sup>

The sorry story of relations with Jugurtha and Adherbal had already created considerable uneasiness in Rome, but it does not appear to have occurred to anyone that Jugurtha would dare to go so far in defiance. Many Romans had trusted the Senate, and more especially Scaurus, to keep the civil war in Numidia within limits

<sup>1</sup> Above, pp. 61 f., 78 f.

<sup>2</sup> Sallust, *Jug.* 16, 5.

<sup>3</sup> Sallust, *Jug.* 21 f.; Diod. Sic. XXXIV-XXXV, 31.

which would not call for the intervention of Rome. They now learnt the lesson, so cruelly impressed upon their fellows at Cirta, that Jugurtha was no Roman gentleman but a half savage tribal king, convinced that he had nothing to fear from the decadent Romans. The political enemies of the Senate were emboldened to attack it once more, and they could now count upon the support of the Middle Class, outraged by the massacre at Cirta and by the loss of their flourishing businesses in North Africa. In the Senate, if we may believe Sallust,<sup>1</sup> there were still some men ready to make excuses for Jugurtha, but popular clamour was too strong to be ignored. C. Memmius, tribune elect for 111 B.C. and the most successful popular leader of the moment, used his gift of fierce invective so vigorously that the Senate was forced to declare war on Jugurtha.

The command fell to one of the consuls for 111 B.C., L. Calpurnius Bestia, who, as tribune in 120 B.C., had assisted the nobility by securing the restoration from exile of P. Popillius Laenas, the consul responsible for the execution of the followers of Ti. Gracchus in 132 B.C. He and the Senate yielded to popular opinion so far as to refuse to listen to an embassy from Jugurtha, but it is clear from the preparations he made that Bestia still hoped that he might solve the Numidian problem by diplomacy rather than force. Though his military preparations were thorough, his chief officers were selected from the more conservative senators and included that prince of negotiators, M. Aemilius Scaurus. After some military success, he got in touch with Jugurtha and, with the help of Scaurus, made terms whereby Jugurtha should retain his kingship of the whole of Numidia in return for a nominal capitulation and an indemnity. This settlement, like that of 116 B.C., was in line with the Senate's general policy of avoiding wars and protecting the empire by the creation of client kingdoms on its frontiers. It may thus have been quite sincerely entered into by the Roman negotiators and would certainly be acceptable to the majority of the Senate. Even the Middle Class would not be entirely hostile to a settlement which left North Africa at peace, though they no doubt realized that Jugurtha would not be so accommodating to business men as Adherbal had been, and they could hardly accept the comparatively small indemnity as sufficient reparation for the murder of their associates at Cirta. Very different was the attitude of Memmius and his followers. Allegations of corruption were freely made against Bestia and other senators, and

<sup>1</sup> *Jug.* 27, 1.

Memmius, now tribune, forced through the Assembly a measure ordering that Jugurtha be brought to Rome in person, under a safe conduct, to give evidence before the people about his alleged bribery of prominent Romans. This move, though it failed of its ostensible purpose, served to confirm the popular suspicions of collusion. A rival tribune prevented Jugurtha from speaking and the king himself, with incredible audacity, took advantage of his visit to Rome to arrange the murder of Massiva, a claimant to his throne. The only course for Rome was to renew the war, repudiating the terms made by Bestia. In the circumstances, only the most vigorous and successful prosecution of the war could allay the suspicions which the people felt of all senatorial commanders.<sup>1</sup>

The new general, Sp. Postumius Albinus, consul for 110 B.C., seemed likely to achieve this. He was eager to distinguish himself and was believed to have tried to provoke a renewal of the war for that purpose by encouraging the claims of the unlucky Massiva. Unfortunately, his time was growing short and, failing to win swift military success, he attempted to persuade Jugurtha to surrender, thus bringing upon himself the same kind of suspicions which had wrecked the settlement achieved by Bestia. Finally he had to return to Rome to preside at the elections and, during his absence, his brother Aulus, whom he had left in command in Numidia, marched, in the depths of winter, against Suthul, the treasure city of Jugurtha. Lured into a trap by the king, he was compelled to surrender, and Rome had suffered her first serious defeat in the war.

When the news reached Rome, the Senate repudiated the terms of surrender and Sp. Albinus hastened back to Numidia, only to find his army in such a state of demoralization that he could do nothing but await his successor. The opposition, determined now to teach senatorial commanders a lesson and led by another bitter enemy of senatorial rule, the tribune C. Mamilius Limetanus, put through the Assembly a bill setting up a special court to inquire into the activities of all those accused of corruption or collusion with Jugurtha.<sup>2</sup> Special courts were a device already used effectively by the Senate, especially against the adherents of the Gracchi. Trial by the people, the only alternative in such cases, was a cumbersome procedure and not always to be relied upon to produce the desired verdict. Moreover, in setting up such a special court, the Senate could stipulate that the

<sup>1</sup> For a different view of this agitation, assigning more responsibility to the equestrian order, see G. de Sanctis, *Problemi*, 187 f.

<sup>2</sup> Sallust, *Jug.* 40. Cf. Cicero, *Brutus*, 127 f.; *Balb.* 28; *Sest.* 140.



jurors should be senators and thus recover some of the judicial power it had lost by C. Gracchus' judiciary law. Its opponents, however, were quick to see through this manoeuvre. It was about this time, for instance, or a little later, that the popular leader Glaucia warned the people to scrutinize any new law with care to see that it did not propose to rob them of their judicial powers by establishing a special court.<sup>1</sup> Now the Senate's weapon was to be used against it. The jurors in the Mamilian court were of equestrian rank,<sup>2</sup> and they did their work with the utmost severity, showing that the Middle Class was now at one with the masses in hostility to the Senate. Scaurus evaded prosecution by getting himself selected as one of the presidents of the court,<sup>3</sup> but he could not save Bestia, Albinus and other prominent senators from condemnation. Among the most energetic prosecutors was C. Memmius.<sup>4</sup>

Having thus impressed upon the senatorial generals that no kind of corruption or inefficiency would be tolerated in future in the prosecution of the war against Jugurtha, the opposition showed no desire to go further and take control of the war out of the hands of the Senate. The two consuls for 109 B.C. drew lots for the command in the usual way and the honour fell to Q. Caecilius Metellus, most trusted and able member of the greatest ruling family of the day. Metellus' preparations were thorough and his conduct of the war vigorous and efficient during the two years he held the command. But Jugurtha was an elusive foe and all Metellus' attempts to capture him failed. In Rome, therefore, the old suspicions of senatorial corruption began to revive, though in a somewhat different form, for Metellus was accused of prolonging the war for his own glorification. A prominent part in the agitation against him was taken by middle-class business men who wanted a speedy end to the war so that they could resume their activities in North Africa. They were further incensed by a second massacre of Italian traders, this time at Vaga.<sup>5</sup> Criticism of Metellus, both in North Africa and in Rome, was sedulously encouraged by C. Marius, one of his senior officers, who coveted the chief command. Marius, if not actually of equestrian origin, had reached senatorial rank by passing through the equestrian officer grades in the army and so had a claim to the support

<sup>1</sup> Cicero, *Rab. Post.* 14. For a somewhat different interpretation see Zumpt, *Criminalrecht*, II, 2, 5. Cf. above, p. 109, n. 2.

<sup>2</sup> *Gracchani iudices*. Cicero, *Brutus*, 128.

<sup>3</sup> There were three *quaesitores* but their exact functions are unknown.

<sup>4</sup> Cicero, *De Orat.* II, 283. Cf. *Brutus*, 136.

<sup>5</sup> Sallust, *Jug.* 47; 66 f.

of the Middle Class.<sup>1</sup> His grievance, that his promotion in public life was being deliberately retarded by the senatorial nobility, would be well understood by the equestrian officers of Metellus' army.<sup>2</sup> It was therefore easy for him to persuade them, as well as the *publicani* and other business men on the spot, to write letters home criticizing Metellus' handling of the war and urging the claims of Marius as the commander most likely to bring it to a speedy end.<sup>3</sup> When, therefore, the Senate prolonged Metellus' command in 108 B.C. for a further year, there were loud protests and even attempts to impeach Metellus. Marius, released with reluctance by Metellus, reached Rome just in time to be elected consul for 107 B.C. and a special law, overriding the Senate's right to assign the consular provinces, gave him the command in Numidia.<sup>4</sup> With the subsequent history of the Numidian War, culminating in the capture and execution of Jugurtha himself, we are not here concerned. Our concern is with the course of politics in Rome during the absence of Marius.

When Metellus returned to Rome after being superseded by Marius, he found himself, much to his surprise, well received by all classes.<sup>5</sup> This was, of course, a tribute to his personal integrity, which is admitted even by Sallust, but it was also symptomatic of a very confused political situation. The fact is that, in spite of four years of sustained attack upon the senatorial government, the opposition could not provide an alternative to it. The experiment of governing through the Assembly had failed even in the hands of a man of genius like C. Gracchus. The popular leaders who had succeeded him, though some, like C. Memmius, were men of ability and integrity,<sup>6</sup> had done little more than embarrass the Senate. The latest of them, Marius, however successful as a general, was politically incompetent. The Middle Class was, for the moment, owing to its support of Marius and its share in the Mamilian Commission, committed to the popular cause. It is not surprising, in these circumstances, that the Senate should make another attempt to assert its supremacy. This it did by an attack on the Gracchan judiciary law. One of the consuls for 106 B.C., Q. Servilius Caepio, proposed a law whose precise

<sup>1</sup> See above, p. 27 f. Vell. Pat. II, 11, 1, says that Marius was *natus equestri loco*, though he elsewhere (II, 128, 3) and others (Dio Cass. *Frag.* 87, 2; Plut. *Marius*, 3; Pliny, *Nat. Hist.* XXXIII, 150) indicate a humbler origin. Cf. Diod. Sic. XXXIV-XXXV, 38, 1. The accounts of his military career in Pluratch (*loc. cit.*) and Sallust, *Jug.* 63, show him to have been an officer.

<sup>2</sup> Sallust, *Jug.* 63 f.; 85.

<sup>3</sup> Sallust, *Jug.* 64, 65, 73, 3; Vell. Pat. II, 11; Diod. Sic. XXXIV-XXXV, 38; Plut. *Marius*, 7.

<sup>4</sup> Sallust, *Jug.* 73; Vell. Pat. II, 11, 2; Plut. *Marius*, 8 f.

<sup>5</sup> Sallust, *Jug.* 88, 1. See above, p. 116, n. 3.

<sup>6</sup> Orosius, V, 17, 5.

contents are a matter of doubt, though its tendency is obvious. The intention was to restore to senators their right to act as jurors, though whether they were to be the only jurors or were to share the privilege with the Equites is not clear.<sup>1</sup> Amongst the strongest supporters of the law was Crassus—a fact which would indicate that even the moderate senators had now given up hope of any effective collaboration with the Middle Class.<sup>2</sup> Ancient references do not reveal whether it was passed or not and the point remains doubtful.<sup>3</sup> Even if it was passed, it remained in force for only a very short time, being swept away with its author in the renewed agitation which followed Caepio's defeat by the Cimbri.<sup>4</sup>

In the year of his consulship Caepio was sent to Southern Gaul to operate against the Cimbri and Teutones, wandering Celtic tribes who were then terrorizing the whole of Southern Europe and had already inflicted serious defeats upon Roman armies. Failing to contact the Celts, who had moved out of the Roman province, he attacked their allies the Volcae Tectosages and, after defeating them, seized the famous treasure from their holy city of Tolosa. When this *aurum Tolosanum* disappeared while on its way to Rome, Caepio was suspected, along with others, of having appropriated it. Nevertheless, his command was prolonged into 105 B.C. It was his refusal to co-operate effectively with the consul Cn. Mallius Maximus, whom he despised as a parvenu, which was largely responsible for the Roman defeat at Arausio, the most severe disaster suffered by Rome at the hands of the Cimbri and Teutones. Fortunately for Rome, the barbarians did not follow up their success. Marius, just returned in triumph from Numidia, was at once elected consul for 104 B.C. and given charge of the war in the North. The appointment of the people's hero was a success for the enemies of the Senate, but so pressing was the danger that even those senators most bitterly opposed

<sup>1</sup> The former is the version of Tacitus (*Ann.* XII, 60), the latter of Cassiodorus (*Chron.*) and Obsequens (41 (101)). See Baldson in *Papers Brit. Sch. Rome*, XIV (1938), 98 f. Cicero's insistence (*Brut.* 164; *Clu.* 140; *Inv.* I, 92; *De Orat.* I, 225; II, 199 f.) that Crassus' speech for the law was an attack on the equestrian order and a defence of the Senate seems to support the version of Tacitus. Cf. Val. Max. VI, 9, 13; Cicero *ap.* Ascon. p. 79, where, despite Baldson (*loc. cit.* 101), *cum primum* most probably means 'when for the first time'.

<sup>2</sup> Cicero, *loc. cit.* cf. *Brut.* 161; 164; 296; 298; *De Orat.* II, 223; *Off.* II, 63; *Parad.* 41; Priscian, VIII, 73. Cf. above, p. 115 f. For a different view see Greenidge, *Hist. of Rome*, 477 f.

<sup>3</sup> Cicero, *Verr.* I, 38; *Cornel. ap.* Ascon. p. 79 (cf. Ps.-Ascon, pp. 103; 145 (Or.)), usually quoted as evidence that it failed to pass, are not conclusive, since both passages lack precision. The political situation would not favour the acceptance of such a law by the people, but certainty is impossible.

<sup>4</sup> Its short duration is proved by the passages quoted in the previous note and by the verdicts in the trials of C. Memmius and C. Flavius Fimbria (below, p. 124). It may have been abrogated by the Lex Servilia of Glaucia (below, p. 123).

to Marius accepted it.<sup>1</sup> Marius fully deserved the confidence thus placed in him, and the careful preparations he made in the next two years enabled him to smash the Celts when they finally returned to North Italy in 102 B.C.

Meanwhile in Rome panic and indignation combined to make the people ready for a fresh attempt to break the power of the senatorial aristocracy. Their new leaders, L. Appuleius Saturninus and C. Servilius Glaucia, were men of more vigour and far greater revolutionary fervour than Memmius or Mamilius. Saturninus, who was quaestor in 104 B.C., is said by ancient writers to have been converted to revolution by being superseded in his control of the importation of corn at Ostia.<sup>2</sup> This may be true, but it is tempting to conjecture that the alleged inefficiency he showed in this job was really collusion with the importers, business men whose support, in the Gracchan tradition, he was endeavouring to gain for the popular cause. As for Glaucia, he was a recognized wit and a mordant critic of the Senate.<sup>3</sup> The details of his career are obscure, but it is known that he was a member of the Senate in 102 B.C.<sup>4</sup> He was also the author of an extortion law which remained in force until the time of Sulla.<sup>5</sup> Cicero<sup>6</sup> tells us that the law was harsh and also<sup>7</sup> that it pleased the equestrian order. It is unfortunate that we do not know the date of the tribunate of Glaucia during which the law was passed. Of the dates suggested by modern scholars, 104 B.C. would best suit the political circumstances.<sup>8</sup> The severity of the law would then fit in with the popular attack on the Senate and the favourable attitude of the equestrian order would be explained by the fact that, in laying down regulations as to the choice of jurors in trials for extortion, Glaucia had restored to that class the privilege of acting as jurors lost to them by Caepio's law of 106 B.C.<sup>9</sup>

In any case, the period from 104 B.C. to 100 B.C. saw a sustained attack by the popular leaders upon the aristocracy. For such an attack Caepio was an obvious first victim. Recalled to Rome after Arausio, he was stripped of his *imperium* and brought before a special court set up to investigate the loss of the gold of Tolosa.<sup>10</sup> He appears to have

<sup>1</sup> Cicero, *Prov. Cons.* 19.

<sup>2</sup> Cicero, *Har. Resp.* 43; *Sest.* 39; Diod. Sic. XXXVI, 12.

<sup>3</sup> Above, p. 120.

<sup>4</sup> Appian, *Civ.* I, 28.

<sup>5</sup> Ascon. *Scaur.* p. 21; Cicero, *Balb.* 54; *Rab. Post.* 9.

<sup>6</sup> *Verr.* II, 1, 26; *Balb.* 54.

<sup>7</sup> *Brut.* 224.

<sup>8</sup> C.A.H. IX, 161 f.; Balsdon, *loc. cit.* For different views cf. P.-W. s.v. *Servilius*, No. 65; Bloch et Carcopino, *Hist. Rom.* 319 f.; 346 f., etc.

<sup>9</sup> Above, p. 121 f. For a detailed discussion of Glaucia's law see Zumpt, *Criminalrecht*, II, 1, 196 f.

<sup>10</sup> For a detailed discussion see J. Lengle in *Hermes* LXVI (1931), 302 f.

escaped any severe penalty in this court, but he was clearly now regarded, like Bestia and Albinus before him, as symbolic of all that the people hated and feared in his class. His judiciary law had revealed hostility to the Middle Class and their coalition with the people, his attitude towards Mallius had typified aristocratic snobbery and his failure at Arausio was one more example of senatorial incompetence. He could not be allowed to escape. In 103 B.C. Saturninus was tribune and, with the support of a colleague, C. Norbanus, arraigned Caepio before the people for his military incompetence. Amid scenes of violence Caepio was found guilty and, but for the help of another tribune, would have been imprisoned for life. Instead, he was allowed to go into exile. Mallius, his fellow general, was also banished under a law proposed by Saturninus.<sup>1</sup>

The struggle for power went on also in the law-courts. The equestrian Middle Class cannot have approved of the violent methods of Saturninus and his associates, but it was still committed to an anti-senatorial policy, as is shown by the results of two extortion trials which took place about this time. C. Memmius, popular leader during the Jugurthine War, was indicted for extortion and a political flavour was given to the trial by the intervention of the *princeps senatus*, Scaurus, who gave evidence against him. In spite of the prestige of Scaurus, the equestrian jury acquitted Memmius. Scaurus' evidence also failed to secure the conviction, on the same charge and at about the same time, of another prominent anti-senatorial, C. Flavius Fimbria, consul with Marius in 104 B.C. and father of the notorious Marian leader of the same name.<sup>2</sup>

Emboldened by his success against Caepio and Mallius and convinced that he now had the permanent support of the equestrian order, Saturninus attempted to devise a more rapid and reliable means of punishing his senatorial enemies. Damage to the prestige (*maiestas*) of Rome had long been recognized as a punishable offence, but the crime was ill-defined and methods of dealing with it inadequate.<sup>3</sup> In a law which is generally assigned to his first tribunate in 103 B.C., Saturninus defined the offence of *maiestas minuta* in general terms. At the same time he established a court to deal with charges under the law, though it is uncertain whether this was a permanent

<sup>1</sup> Details are obscure and there are many contradictory theories. The above is the view of Lenge, *loc. cit.* Cf. C.A.H. IX, 159 f.; Münzer in P.-W. s.v. *Servilius*, No. 49; *id.* in *Hermes* LXVII (1932), 220 f.; *id.* *Adelsp.* 289. That Norbanus had popular support in his prosecution of Caepio is shown by Cicero, *De Orat.* II, 124, 167; 197 f.; *Part. Orat.* 105. M. Iunius Silanus, another defeated general, was acquitted. Ascon. *Cornel.* p. 80.

<sup>2</sup> Val. Max. VIII, 5, 2; Cicero, *Font.* 24; 26. Cf. *Brut.* 168.

<sup>3</sup> See P.-W. s.v. *Maiestas*, XIV, 1, 545.

court, like the extortion court, or a special commission, like the *Quaestio Mamilia*. In either case the juries would naturally be of equestrian rank.<sup>1</sup>

Nor were the economic interests of the Middle Class neglected. It was during the period of Saturninus' predominance that the first serious attempt was made to crush piracy. As we have seen, the activities of the pirates of the Mediterranean had not been unwelcome to the senatorial class, who relied on them for their supply of slaves.<sup>2</sup> But the harm they did to other types of commerce outweighed this advantage in the eyes of business men, and it was no doubt in their interests that a special command was set up in 102 B.C. to suppress piracy. The task was entrusted to the praetor M. Antonius, the famous orator, whose departure from Rome would, incidentally, relieve Saturninus of a formidable opponent. Of Antonius' achievements we know little, and it does not appear that he had any great success beyond the establishment of a foothold in southern Asia Minor, in the district later known as the province of Cilicia.<sup>3</sup>

In spite of all this, Saturninus was soon to discover, like his model C. Gracchus, that the Middle Class would not countenance revolution. The explosions of violence which accompanied almost every political move of Saturninus and his friends served to remind them that their own property, as well as that of the senatorial class, was in danger. As in 123 B.C., therefore, they transferred their allegiance to the Senate. In 102 B.C. Metellus Numidicus, now the leader of senatorial reaction, was censor with his cousin, C. Metellus Caprarius, as his colleague. He tried to block the careers of Saturninus and Glaucia by refusing to enrol them on the list of senators, but Caprarius, fearing more violence, refused to support the move. He did, however, agree to the exclusion from the census lists of one Equitius who had been suborned by Saturninus to put himself forward as the son of Ti. Gracchus. When, as a result, Numidicus was attacked by a mob and shut up in the Capitol, it was, according to one version of the story, a band of Equites who rescued him.<sup>4</sup> When, in the next year, Saturninus attempted to discredit the Senate further by allegations of wholesale bribery by envoys of Mithridates, the Senate retaliated by indicting him before a court consisting of senators, and

<sup>1</sup> Cicero, *De Orat.* II, 107; 201; *Part. Orat.* 105; *Ad Heren.* I, 21; II, 17; Val. Max. VIII, 5, 2. Cf. P.-W. *loc. cit.*; Lengle, *loc. cit.*; C.A.H. IX, 160 f.; 172; 306; etc.

<sup>2</sup> Above, p. 98.

<sup>3</sup> Above, p. 72. Cf. Ormerod, *Piracy*, 205 f.; Ferguson, *Hell. Ath.* 424 f.

<sup>4</sup> Orosius, V, 17, 3. Cf. Appian, *Civ.* I, 28; Cicero, *Sest.* 101; Val. Max. IX, 7, 2. For an interesting estimate of Numidicus see De Sanctis, *Problemi*, 215 f.

he was saved from condemnation only by the threatening attitude of the crowd which surrounded the court.<sup>1</sup>

No quarter could now be given on either side and the final struggle was approaching. Everything depended upon the attitude of Marius, who had now come back to Rome after his victories over the Celts. Backed by the votes of his returned legionaries as well as by his immense popularity as the accepted saviour of Italy, he dominated the political scene. Yet he showed little appreciation of the power he commanded and seemed quite unable to see beyond the immediate future and his own needs of the moment, which were twofold. He desired to be re-elected as consul for the sixth time, and he also sought a means of providing for his veteran troops. The latter problem, though by no means new in the history of Rome, was made far more pressing than ever before by Marius' virtual abolition of the property qualification for military service.<sup>2</sup> Hitherto, the great majority of troops had been men with some small property to which they could return after service. The state, it is true, had frequently helped those discharged soldiers who needed it with grants of land. But a very large proportion of Marius' men were of the lowest census group (*capite censi*), who had had nothing to live on but their pay and booty and now looked to Marius to provide for them in civilian life. Marius looked to the politicians. There is little doubt that, in spite of his origins and his previous reliance upon popular support, he was no revolutionary. The Senate might, by a statesman-like recognition of his difficulty and a readiness to show gratitude to men who had won two wars for Rome, have gained his support. Instead, it looked back rather than forward and remembered only the means by which he had risen and not the ends which he had achieved. Marius could get no help from them. Saturninus, on the other hand, was fully alive to the importance of gaining Marius' goodwill. Already in his first tribunate (103 B.C.) he had done Marius a precisely similar service, securing his re-election to the consulship and providing for the veterans of the Jugurthine War by allotments of land in North Africa.<sup>3</sup> He now offered to do the same for the veterans of the Cimbric War and to get Marius elected as consul for 100 B.C. Marius had thus no choice but to collaborate with the popular leaders. The elections for 100 B.C. brought a complete victory for the coalition, Marius being elected to his sixth consulship, Saturninus to a second

<sup>1</sup> Diod. Sic. XXXVI, 15. Cf. Willems, *Le Sénat*, II, 487.

<sup>2</sup> See, e.g., Parker, *R. Legions*, 21 f.

<sup>3</sup> *De Vir. Illust.* 73, 1. Cf. above, p. 63.

tribunate and Glaucia to the praetorship. Saturninus at once carried out the rest of his bargain by an agrarian law allotting land to the veterans on the territory formerly occupied by the Cimbri and by projecting a number of colonies abroad. He may even have gone further and provided Marius himself with further opportunities for glory by creating a special command for him against the pirates.<sup>1</sup> In all this the resemblance to C. Gracchus and his activities in 123–122 B.C. was unmistakable, especially as Saturninus also proposed, in this or his previous tribunate, a law to sell corn to the people at a very cheap rate.<sup>2</sup>

The result was a reaction very similar to that of 122 B.C. Metellus Numidicus had been got rid of by being exiled for refusing to take the oath of acceptance required of all senators by the agrarian law, but Scaurus came forward to lead the attack on the revolutionaries. He was backed by the Senate, including moderates like Crassus and Scaevola, and also by the Middle Class, now fully convinced of where their interests lay.<sup>3</sup> Even the former popular leader, C. Memmius, now a candidate for the consulship of 99 B.C., showed a lack of sympathy with the aims of the extremists.<sup>4</sup> Most significant of all, Marius himself was wavering. In desperation, the popular leaders sought to ensure the continuance of their policy by clinging to office. Saturninus was re-elected as tribune for 99 B.C., with Equitius, the false Gracchus, as his colleague, and Glaucia stood, illegally, for the consulship. In the riots which accompanied the consular elections Memmius was murdered—a crime which compelled Marius to make his position clear. Summoned by the ‘ultimate decree’ of the Senate to protect the state, he so far remembered his duty as consul as to arrest Saturninus, Glaucia and other leaders of the revolution. He was saved the embarrassment of a trial by a mob of senators and Equites who attacked and murdered his prisoners.<sup>5</sup>

So once more revolution had been averted by the breakdown of a coalition between popular leaders and Middle Class. The senatorial aristocracy returned to power with the confidence that the Middle Class had no intention of supporting any change in the constitution which did not guarantee the security of property. But beyond this its political attitude was uncertain and it showed no inclination to give

<sup>1</sup> Stuart Jones in *J.R.S.* XVI (1926), 155 f.; T. Frank in *Econ. Surv.* I, 275; Rostovtzeff, *Hell. World*, 786; Bloch et Carcopino, *Hist. Rom.* 350 f.

<sup>2</sup> *Ad Heren.* I, 21, variously dated in 103 and 100 B.C.

<sup>3</sup> *Val. Max.* III, 2, 18; Cicero, *Rab. Perd.* 20–27; *Phil.* VIII, 15; *Plut. Marius*, 30, 3.

<sup>4</sup> *Livy, Epit.* 69. The suggestion made by Robinson (*Marius*, 104 f.) that Memmius was linked with the Middle Class is interesting but beyond proof.

<sup>5</sup> *Orosius*, V, 17, 9; *De Vir. Illust.* 73, 11; Cicero, *Rab. Perd.* 20; 27 f.



the Senate unquestioning co-operation. The ten years between the death of Saturninus and the next major political event, the tribunate of M. Livius Drusus, were, therefore, years of cautious fencing between the two orders. The Senate's hesitation to annex Cyrenaica in 96 B.C. cannot have pleased the business men, though they did gain something from the administration of the public estates there.<sup>1</sup> In other provinces, as we shall see, there was antagonism between senatorial governors and equestrian business men. In Rome itself there was a series of political trials in which the equestrian jurors did not always produce the verdict desired by the Senate.

Their condemnation of Sex. Titius, tribune in 99 B.C., for having a portrait of Saturninus in his home would meet with senatorial approval.<sup>2</sup> So, too, would their acquittal of the younger Q. Servilius Caepio, son of the Caepio defeated at Arausio. He had been the champion of the treasury, when quaestor, against the proposed corn law of Saturninus and had gone to the length of using violence to prevent its passage. Hence his trial on a charge of *maiestas minuta*. He subsequently showed his gratitude to the equestrian order by becoming their champion against Livius Drusus and the Senate.<sup>3</sup> Another trial, that of P. Furius, though it appears to have taken place in the Assembly and not before a jury, deserves mention here because of the defendant's connection with the equestrian order. Son of a freedman, Furius had been an *eques equo publico* until the Metelli, when censors in 102-101 B.C., took away his public horse, presumably on the ground of his birth. Becoming a satellite of Marius, who shared his hatred of the Metelli, he first of all supported Saturninus, whose colleague he was in the tribunate in 100 B.C., and then, with Marius, turned against him and proposed the confiscation of his property and that of his followers after their death. Subsequently he vetoed a proposal for the recall of Metellus Numidicus. He thus earned the dislike of both the people and the nobility. He was prosecuted by C. Appuleius Decianus, tribune of 99 B.C., but without success, but when he was again indicted by C. Canuleius, a colleague of Decianus, he was torn to pieces by the mob.<sup>4</sup>

In 94 B.C. an equestrian jury refused to convict C. Norbanus, who had, as tribune with Saturninus in 103 B.C., assisted him in the

<sup>1</sup> Above, p. 76 f.

<sup>2</sup> Cicero, *Rab. Perd.* 24; *De Orat.* II, 48; Val. Max. VIII, 1, *Damn.* 3.

<sup>3</sup> Below, pp. 131 f., 135; *Ad Heren.* I, 21; II, 17; Cicero, *Brut.* 223. Cf. Münzer, *Adelsp.* 292 f.; 298 f. It is here assumed, though evidence is lacking, that the trial was before an equestrian jury.

<sup>4</sup> Appian, *Civ.* I, 33; Dio Cass. *Frag.* 93; Orosius, V, 17, 10 f.; Cicero, *Rab. Perd.* 24; Val. Max. VIII, 1, *Damn.* 2.

expulsion of Caepio. The *princeps senatus*, Scaurus, testified against Norbanus, unsuccessfully as in the previous cases of Memmius and Flavius.<sup>1</sup> In the same way, Crassus' evidence failed to convince the jurors in the trial of M. Claudius Marcellus, a former officer of Marius, in 91 B.C.<sup>2</sup> Relations between the two orders grew steadily worse in the second half of this decade. Two major problems were now coming to a head, and both demanded wise statesmanship on the part of the Senate, backed by the unity of the whole Roman people. The first and more pressing of these was that of the status of the Latin and Italian allies. Since the failure of C. Gracchus' attempt to solve this problem, the popular party had shown some sympathy with the Italian claims and had profited, on occasion, by votes illegally exercised by Italians in the Roman Assembly. The Senate, on the other hand, had steadily opposed all attempts to improve the lot of the allies, and it was now determined to put a stop to irregularities in the Assembly. It is typical of the short-sightedness of even the best type of senators at this time that the authors of a law forbidding allies to exercise the rights of a Roman citizen, and so, of course, aggravating allied discontent, were Crassus and Scaevola, consuls in 95 B.C. Even Cicero, greatly as he admired these two men, described their law as 'useless and harmful to the state'.<sup>3</sup> The other problem was that of the future of Asia Minor. Mithridates, King of Pontus, was massing his strength and making preparations for extending his hold in Asia Minor, thus constituting a serious threat to the province of Asia. His prospects of success were all the brighter because the condition of the province was deplorable. It was being steadily drained of its wealth by the exactions of tax-farmers, money-lenders and other business men, while its senatorial rulers either looked on helplessly, fearing reprisals if they intervened, or themselves lent a hand with the plundering.<sup>4</sup> The whole province was, therefore, ripe for rebellion at the approach of Mithridates. There is a close similarity between the situation in Asia Minor at this time and that in North Africa some twenty years before, and the Senate tried to deal with Mithridates by the same diplomatic methods as it had employed with Jugurtha. Embassies passed between Rome and Pontus, negotiations were carried on in secret, and, inevitably, there were the same suspicions and allegations of corruption.<sup>5</sup>

<sup>1</sup> Above, p. 124; Cicero, *De Orat.* II, 197 f. etc.; Val. Max. VIII, 5, 2. Cf. P.-W. s.v. *Norbanus*, No. 5.

<sup>2</sup> Cicero, *Font.* 24 f.; Val. Max. VIII, 5, 3.

<sup>4</sup> Above, pp. 67 f., 107 f. Cf. Reinach, *Mith. Eup.* 81 f.

<sup>5</sup> Above, p. 116 f.; Reinach, *loc. cit.*

<sup>3</sup> *Cornel. ap. Ascon.* p. 67.

In 94 B.C., after his consulship, Scaevola was appointed governor of Asia and set out to his province with the determination to restore the prestige of Rome there. His edict, laying down the broad lines on which he intended to govern, was a very enlightened document and was to become a pattern for future governors. He reduced official demands upon his subjects by paying, out of his own pocket, the expenses of himself and his suite, and then set to work to put a stop to the exactions of the business men. He rigidly enforced laws and regulations and suppressed all doubtful practices, even going to the length of executing one of the agents of the *publicani*. By such means he earned the respect and gratitude of the Asiatics. At the same time, of course, he drew upon himself the bitter hatred of the tax-farmers and with them of the whole Middle Class of Rome.<sup>1</sup> Scaevola's chief agent and adviser in all this was his legate, P. Rutilius Rufus, a man of the most rigid Stoic principles, a follower of Panaetius and a member of the circle of Scipio Aemilianus—precisely the type of Roman to carry out, regardless of consequences, the line of policy laid down by the governor. Older than Scaevola by some fifteen years, he had served under Metellus in North Africa, and there and subsequently had shown strong hostility to Marius and the popular party, taking part, for instance, in the suppression of Saturninus in 100 B.C.<sup>2</sup> When Scaevola returned to Rome after only nine months of governorship, it was probably Rufus who acted as his deputy until the new governor took over.

Not unnaturally, the Middle Class sought to take vengeance on the men who had dared to interfere with their profitable operations in Asia. They might have attacked Scaevola himself, but they chose Rutilius Rufus as their victim instead, probably because his prestige and popularity were less than those of Scaevola, but possibly also because they looked upon him as the instigator of Scaevola's policy. Accused of extortion, of all things, by a notorious reprobate called Apicius, he came to trial in 92 B.C. before equestrian jurors, and could therefore expect no mercy. We are told that Rutilius refused the services of both Crassus and Antonius, the leading orators of the day, and relied for his defence upon his young nephew, C. Aurelius Cotta, and Scaevola. He was quite obviously prepared for martyrdom, and his whole behaviour at the trial recalled to his contemporaries that of

<sup>1</sup> Cicero, *Ad Att.* V, 17, 5; VI, 1, 15; *Ad Fam.* I, 9, 26; *Planc.* 33; Val. Max. VIII, 15, 6; Diod. Sic. XXXVII, 5. The date of Scaevola's governorship is disputed. See P.-W. s.v. *Rutilius*, No. 34, and, for the alternative date (98 B.C.), the to me unconvincing article of Balsdon in C.R. LI (1937), 8 f., and the works there referred to.

<sup>2</sup> See P.-W. loc. cit.

Socrates on a more famous occasion. Found guilty, he was unable to pay the huge fine imposed and retired into exile to the very province he was alleged to have plundered. There he was welcomed and settled first in Mytilene but later, during the Mithridatic massacre of 88 B.C., moved to Smyrna, where he died.<sup>1</sup> The flagrant bias of the verdict in this trial is emphasized by our ancient sources, and Rutilius became the stock example of the blameless man victimized for his principles. There can be no doubt that the equestrian order deliberately engineered the trial as an act of revenge.<sup>2</sup>

Velleius Paterculus<sup>3</sup> tells us that Rutilius was only one of many senators treated in this way, and it is evident from the history of the next few years that his trial was a declaration of open war between Senate and Middle Class. But, while condemning the action of the latter, we cannot acquit the Senate of blame. Rutilius and Scaevola were typical of only a small minority of their class, men of integrity striving vainly to recapture the old public spirit and recreate the prestige of the senatorial aristocracy. The majority of their fellows had long ago given up the struggle and were now as deeply involved in the exploitation of the provinces and the pursuit of wealth as any business man. Many senators made large fortunes either by direct exactions from the provincials or by secret investment in the tax-farming syndicates they were supposed to supervise or by other equally dubious means. Such a one was the 'Father of the House', the wily Aemilius Scaurus. Starting with a tiny patrimony, he had acquired immense wealth by methods so discreetly employed that no concrete evidence of misdemeanour could be produced against him. We have seen<sup>4</sup> how, twenty years before, he had been suspected of accepting bribes from Jugurtha, but had evaded trial by the Mamilian Commission. He was now similarly suspected of being in the pay of Mithridates, to whom he had recently been on an embassy.<sup>5</sup> This time his enemies did not make the mistake of trying to prove the real charge against Scaurus. Instead they attempted against him the same tactics as had destroyed Rutilius Rufus. The younger Caepio, now the champion and mouthpiece of the equestrian

<sup>1</sup> For details and references see, especially, E. Pais, *Dalle Guerre Pun.* I, 35 f.

<sup>2</sup> Livy, *Epit.* 70; Val. Max. II, 10, 5; VI, 4, 4; Vell. Pat. II, 13, 2; Ascon. p. 21; Ps.-Ascon. p. 122 (Or.); Florus, II, 5, 3; Orosius, V, 17, 12 f.; Dio Cass. *Frag.* 97; Diod. Sic. XXXVII, 5. It is noteworthy that Cicero, though he frequently refers to the case and condemns the verdict, nowhere mentions that it was tried by an equestrian jury.

<sup>3</sup> II, 13, 2.

<sup>4</sup> Above, p. 120.

<sup>5</sup> The words of Asconius (p. 21)—*ob legationis Asiaticae invidiam*—show that the embassy cannot have been long before the trial. It is absurd to suggest that *invidia* caused by an embassy undertaken in, say, 104 B.C., could have any effect on a trial in 92 B.C. Cf. Val. Max. III, 7, 8; G. Bloch, *M. Aem. Scaurus*, 27 f.

order, accused him of extortion, though in what province and when the alleged offence had been committed we do not know, and it does not greatly matter. The choice of Caepio, their most powerful advocate, as contrasted with the employment against Rutilius of the despicable nobody Apicius, reveals that the Middle Class realized that Scaurus would not be so easy a victim. The nature of the charge would ensure that he would be tried by an equestrian jury, but he had friends and associates in all classes and, though he professed the same high principles as Rutilius Rufus, he had nothing of the martyr in his make-up. Moreover, he had no intention of allowing the case to come to trial at all if he could prevent it, and he was adept at all the tricks of the law-courts. Already the young reformer, M. Livius Drusus, was planning his attack upon the equestrian juries with the advice and assistance of Scaurus, so that it was necessary only to postpone the trial until the next year, when Drusus would be tribune. This Scaurus succeeded in doing by bringing a counter-charge against Caepio and accepting a shortened form of procedure so as to get Caepio tried first. Caepio was, of course, acquitted, but Scaurus never came to trial.<sup>1</sup>

The tribunate of Drusus came in 91 B.C. and with it the Senate's counter-attack upon the Middle Class. Son of the tribune of the same name who had taken up the Senate's cause against C. Gracchus, Drusus was a young man of noble birth, considerable ability and great wealth. He was closely associated with the more enlightened section of the Senate, notably with Crassus and Scaurus, and was one of a group of young men who were regarded as destined to revive the ancient prestige and power of the Senate—others being C. Aurelius Cotta, the nephew of Rutilius Rufus already mentioned, and P. Sulpicius Rufus, of whom we shall hear more later.<sup>2</sup> Drusus appears to have regarded himself as the instrument chosen by providence to solve all the political and economic problems of the day, and his somewhat priggish attitude recalls that of Rutilius Rufus, with whom he was related by marriage. He secured election to the tribunate with the deliberate purpose of using the methods of C. Gracchus to undo the work of that great reformer.<sup>3</sup> The technique was simple enough—to conceal the true purpose of his policy until

<sup>1</sup> Asconius, p. 21; Cicero, *Brutus*, 223. Cf. Bloch, *loc. cit.*; Pais, *op. cit.* 112 f. On Caepio see below, p. 135; above, p. 128.

<sup>2</sup> Cicero, *De Orat.* I, 24 f.; III, 2 f.; *Nat. Deor.* III, 80; *Dom.* 50; Ascon. p. 21. For Sulpicius see below, p. 141 f.

<sup>3</sup> This explains the fact that some ancient writers describe his measures as 'Gracchan'—e.g. Florus, II, 5; Seneca, *Ad Marc.* 16, 4; *Brev. Vit.* 6, 1—whereas Suetonius (*Tib.* 3) says, quite correctly, that he did outstanding work against the Gracchi.

he had assured himself of sufficient support among the voters to put through any measure he liked.

Our sources do not make clear the chronology of Drusus' measures, but it seems certain that he began with a series of proposals on strictly Gracchan lines, designed to gain popular support—a colony law, probably that of his father revived, an agrarian law, a corn law and debasement of the currency. All these laws were passed by the Assembly and commissioners, including Drusus himself, were appointed to administer the first two.<sup>1</sup> Meanwhile, the principal measures were being discussed in the Senate and elsewhere. There were two of them, and it is quite impossible, in the absence of ancient evidence, to decide which of them Drusus himself regarded as the more important. They dealt with Rome's most urgent domestic problems, the control of the law-courts and the status of the allies. With the latter problem we are not greatly concerned here, since it did not specifically affect the Middle Class. But Drusus' proposals about the juries were naturally of very great importance to them. Unfortunately, as is the case with previous judiciary laws, the ancient evidence is scanty and contradictory and modern scholars have reached no agreement. All our ancient authorities agree that Drusus was the champion of the Senate, and this is clearly the measure in which that championship was displayed.<sup>2</sup> His aim was, ultimately, to reverse the judiciary law of C. Gracchus by transferring control of the jury-courts back to the Senate<sup>3</sup> but he could not achieve this directly nor all at once, for two main reasons. In the first place, such a proposal would have met the united resistance of all sections of the Middle Class, and secondly, the Senate, with a maximum membership of just over 300, could not provide sufficient jurors.<sup>4</sup> Drusus therefore proposed that the juries should in future be selected from the two orders together, the 300 senators being supplemented by an equal number from the equestrian order. So far all the ancient authorities are agreed.<sup>5</sup> There is disagreement, however, as to the status to be conferred on the equestrian section. According to Appian and the author of the *De Viris Illustribus*, they were to be made members of the Senate, whereas the *Epitome* of Livy implies that they were to

<sup>1</sup> For details of these laws see P.-W. s.v. *Livius*, No. 18, and the general histories of Rome.

<sup>2</sup> Livy, *Epit.* 70; 71; Cicero, *Mil.* 16; *De Orat.* I, 24; Ascon. p. 69; Scol. Bob. pp. 282; 356 (Or.); Diod. Sic. XXXVII, 10, 2; Vell. Pat. II, 13, 2; Tacit. *Ann.* III, 27, 3; Sueton. *Tib.* 3; Sallust, *Ad Caes.* II, 6, 3; Florus, II, 5; Ampelius, 26, 4.

<sup>3</sup> Vell. Pat. II, 13, 2; Cf. Sueton. *Tib.* 3; Ascon. p. 21.

<sup>4</sup> Willems, *Le Sénat*, I, 402; Strachan-Davidson (*Problems*, II, 78 f.) has not considered this point.

<sup>5</sup> Appian, *Civ.* I, 35; Livy, *Epit.* 71; *De Vir. Illust.* 66.

retain their equestrian rank. Modern historians have generally preferred the former version,<sup>1</sup> but, in spite of the more circumstantial account given by Appian, the version of Livy's *Epitomator* is preferable. It is supported by evidence about a clause in Drusus' law making the new jurors liable to prosecution for corruption. This whole question is obscure and difficult, but the facts seem to be as follows. C. Gracchus had passed a law dealing with judicial corruption, but his equestrian jurors had always held that they were not liable to prosecution under it, probably on the ground that it preceded Gracchus' judiciary law and therefore applied only to the juries in existence before that law—i.e. to senatorial juries. In course of time, the equestrian jurors appear to have established their point of view and to have been, in fact, exempt from such prosecutions.<sup>2</sup> If, therefore, Drusus' new jurors were all to be members of the Senate, they would all be liable under the Gracchan law of corruption. The fact that he had to add to his judiciary law a special clause making them liable to prosecution for this offence proves that this was not so and that the version of Livy's *Epitome* is to be preferred. This is further confirmed by evidence that the corruption clause was the special object of criticism by the Equites.<sup>3</sup>

No ancient writer gives us much assistance in deciding the further question of how the non-senatorial members of the juries were to be selected. Presumably they would be chosen by the magistrate in charge of the courts, usually the praetor—but on what criterion? The only help we get is from Appian, who says that they were to be chosen 'by merit' (*ἀριστίνδην*), an expression so vague as to be almost meaningless. A study of the terminology he applies to the Equites reveals, however, that the praetor's choice was probably restricted to the eighteen centuries of *equites equo publico*.<sup>4</sup> Such a conclusion fits in well with the general aim of Drusus' policy discussed above, to undo the judiciary law of C. Gracchus and restore senatorial control of the law-courts. Though senators were, as we have seen, excluded from the equestrian centuries, their sons and other relatives formed a good proportion of those centuries.<sup>5</sup> Moreover,

<sup>1</sup> P.-W. *loc. cit.*; Rice-Holmes, *R. Repub.* I, 355 f., and their references. For the contrary view see C.A.H. IX, 177 f.

<sup>2</sup> Cicero, *Clu.* 151 f.; Appian, *Civ.* I, 22. Below, pp. 161, 170.

<sup>3</sup> Appian, *loc. cit.*; Cicero, *Clu.* 153 f.; *Rab. Post.* 16 f. E. G. Hardy (in C.R. XXVI (1912), 218 f. and XXVII (1913), 261 f.) has attempted to defend Appian's account against this criticism, but without success.

<sup>4</sup> See above, p. 109 f.; below, p. 147.

<sup>5</sup> Above, p. 105 f. It is worthy of note that these were precisely the men excluded from the juries by C. Gracchus. Above, p. 110.

the allocation of the public horses was in the hands of senatorial magistrates, the censors, who could, by a judicious use of their power, ensure that the praetor had plenty of the friends of the Senate from which to select his jurymen. Thus the Senate would, in fact though not in theory, be in control of the juries.<sup>1</sup> Even if his scheme did not completely succeed and the equestrian jurors refused to be overshadowed by their senatorial colleagues, Drusus would still have gone a long way towards achieving his object. The mass of the equestrian Middle Class would be excluded from jury service and the Senate might hope to find a means of securing the support of the equestrian centuries. The law would also drive a wedge between the two sections of the equestrian order, and the votes of the eighteen centuries would be a valuable asset to the Senate in the assemblies.

As was to be expected, Drusus' proposals met with the fiercest resistance from the Middle Class, whose spokesman, the younger Q. Servilius Caepio, welcomed the opportunity for an all out attack upon Drusus, with whom he had a personal quarrel.<sup>2</sup> Even the equestrian centuries refused to be placated by the compliment paid to them by Drusus. They were particularly incensed by his proposal to make them liable to prosecution for corruption, arguing, somewhat quaintly, that jury service was a burden upon them and not a privilege as it was for senators.<sup>3</sup> Nevertheless, by using violence and with the help of the popularity bought by his other laws, Drusus succeeded in forcing his judiciary law through the Assembly. Up to this point he appears to have had the support of a majority of the Senate. But there was a powerful minority of that body which strongly opposed him. Led by the consul, L. Marcius Philippus, this conservative group objected to any concession being made to the Middle Class, and would be content with nothing less than the complete reversal of C. Gracchus' judiciary law. The consul even went to the length of threatening to ignore the Senate altogether and work with some more amenable body.<sup>4</sup> But the bulk of the Senate remained loyal to Drusus and, at the instigation of Crassus who defended him in the last speech of his career, passed a resolution of censure upon Philippus. It was not until Drusus produced his plan for admitting the Italian

<sup>1</sup> Cf. the censorial procedure adopted by Fabius Buteo (above p. 41). Caepio's judiciary law of 106 B.C. may have been on similar lines (above, p. 121 f.).

<sup>2</sup> Dio Cass. *Frag.* 94; Florus, II, 5; Ampelius, 26, 4; *De Vir. Illust.* 66, 8; Cicero, *Brut.* 223; *Dom.* 120; Pliny, *Nat. Hist.* XXVIII, 148; XXXIII, 20; Münzer, *Adelsp.* 293.

<sup>3</sup> Appian, *loc. cit.*; Cicero, *Clu.* 153 f.; *Rab. Post.* 16 f.

<sup>4</sup> Cicero, *De Orat.* III, 2; Val. Max. VI, 2, 2. I know of no evidence to support the view, frequently put forward by modern scholars, that Philippus was in league with Caepio and the equestrian order. See Münzer, *Adelsp.* 300.



allies to the citizenship that he lost his grip upon the Senate. The consul, by a campaign of deliberate misrepresentation, finally persuaded that body to declare all the laws of Drusus invalid. The franchise proposals did not meet with popular approval either, and the elections for 90 B.C. resulted in the defeat of C. Aurelius Cotta, nephew of Rutilius Rufus, who had been marked out as Drusus' successor in the tribunate. Recognizing his failure, Drusus refused to continue the struggle. Not long afterwards he was mysteriously assassinated.

The murder of Livius Drusus was the signal for the outbreak of the most futile of all Rome's wars—the rebellion of the Latin and Italian allies which has come to be known as the Social War. The full strength of Rome's military forces had to be deployed against the rebels, and even so her ultimate victory was due less to her successes in the field than to the series of franchise laws which gave to the allies, piecemeal, practically everything they were fighting for. Meanwhile, in Rome, there was the usual hunt for scapegoats. A tribune, Q. Varius Hybrida, passed a law designed to bring to trial anybody suspected of collusion with the allies. The terms of the law are variously recorded. Cicero describes it merely as a law of *Maiestas*; but other ancient writers agree that it applied specifically to men accused of having encouraged the allies to expect and demand the franchise and so having brought about the war.<sup>1</sup> According to Appian, Varius forced through his law in spite of the veto of other tribunes and was enabled to do this by the support of the Equites, who appeared armed in the Assembly. No doubt the Middle Class welcomed the opportunity of vengeance upon those who had attempted to take away their privilege as jurymen. But there were senators, too, who were not sorry to see the end of a group of reformers who had annoyed them for so long. The ex-consul Philippus gave evidence against two of the accused men and the trials were speeded up by a decree of the Senate which, on the pretext of a public emergency, declared a *iustitium* or suspension of public business. By this means all courts were closed except those working under the Varian law.<sup>2</sup> The Varian courts were naturally staffed by

<sup>1</sup> Cicero, *Cornel. ap.* Ascon. p. 79; Ascon. pp. 22; 73; Val. Max. VIII, 6, 4. Appian (*Civ.* I, 37 f.) implies that the law was passed before the outbreak of the war, and his version gains some support from an obscure, and probably corrupt, passage of Cicero (*Off.* II, 75). The evidence is insufficient to enable a decision to be made as to the exact order of events. Cf. Zumpt, *Criminalrecht*, II, 1, 249 f.

<sup>2</sup> Cicero, *Brut.* 304; Ascon. (p. 73 f.) seems to have misinterpreted this move of the Senate. His version is adopted by some modern scholars—e.g. C.A.H. IX, 184; Mommsen, *Ges. Schrift.* III, 339 f.

equestrian juries, as was then the normal practice,<sup>1</sup> so that no one who had opposed the Middle Class need expect any mercy once he was arraigned before them. Thus L. Calpurnius Bestia, a consistent enemy of theirs and already a victim of the Mamilian Commission, did not even wait to stand his trial but went into voluntary exile. Cotta, equally certain of being found guilty, courageously attended the court and delivered a scathing attack on the jury before departing also into exile.<sup>2</sup> Another victim was L. Memmius, described by the historian Sisenna as an 'adviser' of Livius Drusus.<sup>3</sup> It was only by the exercise of his utmost skill as an advocate that the great orator Antonius escaped condemnation. His crime was probably that he had offered to defend Rutilius Rufus.<sup>4</sup> Others who escaped were Scaurus, prosecuted by his old enemy Caepio, and Q. Pompeius Rufus, afterwards Sulla's colleague in the consulship of 88 B.C.<sup>5</sup>

It soon became obvious that the Varian courts were a political weapon likely to become as deadly to all opponents of the Middle Class as the Mamilian Commission.<sup>6</sup> Moreover, the Senate had now decided to make some concessions to the allies and, technically, any magistrate who sponsored such concessions would be liable under Varius' law. It was therefore imperative that control of the courts should not be left in the hands of any one class. With the support of the nobility, one of the tribunes of 89 B.C., M. Plautius Silvanus, put through the Assembly a judiciary law which deprived the equestrian jurors of their monopoly. By this law each tribe was to select fifteen jurymen from its own number, irrespective of their status. The juries would thus include not only Equites but senators and even men of the lowest class.<sup>7</sup>

It is unfortunate that the single passage of Asconius which preserves evidence of this law does not inform us whether it was a permanent or a temporary measure. References in Cicero, Velleius Paterculus

<sup>1</sup> Ascon. p. 79.

<sup>2</sup> Appian, *Civ.* I, 37. See above, p. 120; Cicero, *Brut.* 205; 303; 305.

<sup>3</sup> Cicero, *Brut.* 304; Sisenna *ap.* Non. p. 393 (Lindsay). Cf. Appian, *loc. cit.*, where L. Mummius is almost certainly an error and should be Memmius. P.-W. *s.v.* *Memmius*, Nos. 12 and 14.

<sup>4</sup> Cicero, *Tusc. Disp.* II, 57; above, p. 130.

<sup>5</sup> Scaurus: Ascon. (p. 22) would imply two trials, one under the Varian law and one before the people for *perduellio*. Cf. Val. Max. III, 7, 8; Quintil. V, 12, 10; *De Vir. Illust.* 72, 11; Mommsen, *loc. cit.*; Pais, *Dalle Guerre Pun.* 91 f.; Pompeius: Cicero, *Brut.* 304. There is no evidence to support the statement (in P.-W. *s.v.* *Servilius*, No. 50) that Caepio was himself indicted under the Varian Law.

<sup>6</sup> Ascon. p. 74; Cicero, *De Orat.* III, 8.

<sup>7</sup> Ascon. p. 79. Cicero here records that this was the first occasion on which senators and Equites served together as jurors. For the bearing of this on the *Lex Servilia* of Caepio see above, p. 122. A similar method was used in choosing jurors for the tribunals of the *Centumviri* (Greenidge, *Legal Proc.* 43; 264).

and other ancient writers to equestrian jurors being replaced by senatorial jurors under Sulla's judiciary law have led some modern scholars to hold that it was in force for only a very short time, possibly for one year only.<sup>1</sup> But it is equally possible to argue that it remained in force until Sulla's law. We know of no jury law between those of Plautius and Sulla, and Plautius' arrangement would be acceptable to the popular leaders who dominated Rome in the interval.<sup>2</sup>

Despite its democratic flavour, the new arrangement worked to the advantage of the senatorial nobility, which could still control the assemblies, especially in times of public danger. Not only were many senators saved from trial and almost certain condemnation under the Varian law, but the Senate was even able to use the courts for its own political ends. Cn. Pompeius, 'hated by the gods and the nobility', was prosecuted for *Maiestas*, and Varius himself fell a victim to his own law.<sup>3</sup>

Between the Senate and the Middle Class there was now open hostility, and the former had gained the initiative. Nothing illustrates more clearly the fundamental difference in interests between these two classes than the financial legislation of this period. The senatorial class, mainly still a landed aristocracy and exercising control of the state finances, was principally concerned to balance the budget. It had discovered that the simplest way to achieve this was to debase the coinage—a procedure which could do little harm to its own agricultural interests. The equestrian order, on the other hand, was chiefly occupied in financial operations of various kinds and would regard any tampering with the coinage as hostile to its interests.<sup>4</sup> One of the reasons, for instance, for its fierce opposition to M. Livius Drusus had been his debasement of the silver coinage.<sup>5</sup>

The Roman treasury, already heavily burdened by the expense of cheap grain distributions, land allotments, etc., was placed under a still greater strain by the Social War. Unlike previous wars, it could

<sup>1</sup> Cicero, *Verr.* I, 38; Vell. Pat. II, 32, 3; Ps.-Ascon. pp. 99; 102; 103; 145 (Or.); Scol. Gronov. p. 384 (Or.). Cf. Greenidge, *Legal Proc.* 385; Strachan-Davidson, *Problems*, II, 84; 96; Lange, *R. Alt.* III, 115; 134.

<sup>2</sup> So Belot, II, 263 f.; Zumpt, *Criminalrecht*, II, 1, 258 f. It is possible that the expression *sublataque populi Romani in unum quemque vestrum potestate* in Cicero, *Verr.* I, 38, refers to a removal by Sulla of the people's right to select jurymen under Plautius' law. See also Ps.-Ascon. p. 102 (Or.).

<sup>3</sup> Ascon. pp. 74; 79. The identity of this Cn. Pompeius with Strabo, father of Pompey the Great, is probable but not certain. The result of his trial is not known. For Varius see Cicero, *Brut.* 305; *Nat. Deor.* III, 81; Val. Max. VIII, 6, 4; IX, 2, 2. For his punishment see Lengle, *Strafrecht*, 45.

<sup>4</sup> See H. Mattingly, *Roman Coins*, 94 f.

<sup>5</sup> Pliny, *Nat. Hist.* XXXIII, 46. Cf. T. Frank, *Econ. Surv.* I, 266.

not be expected to pay for itself by booty or indemnities, especially as the Senate was pursuing a policy of concessions to the allies. Mounting state debts were paralleled by a great increase in private indebtedness, especially amongst those whose property was situated in the war areas. The moneylenders, failing to get repayment, began to press their debtors. Finally the latter, in desperation, appealed to the urban praetor, A. Sempronius Asellio, for protection. Taking advantage, no doubt, of the fact that the Middle Class, who would be most likely to take the side of the moneylenders, no longer had a monopoly of jury service, Sempronius passed on the disputes between debtor and creditor to the law-courts, at the same time reminding the jurors of the long obsolete laws which forbade the lending of money at interest. The enraged moneylenders, supported by a tribune, L. Cassius, retaliated by rioting, during which the praetor himself was attacked, in broad daylight in the Forum and while actually engaged in sacrifice, and murdered. Though the Senate investigated the crime and offered rewards for information, the culprits were not found.<sup>1</sup>

In order to lighten the burden on the treasury and at the same time to relieve private indebtedness, the Senate had recourse to a further measure of inflation. It employed the tribune Papirius, a colleague of Plautius, to pass a law which reduced the weight of the *as* by one-half.<sup>2</sup>

By the end of the year 89 B.C. the Social War was practically at an end—largely, as we have seen, owing to a series of franchise laws which conceded the citizenship to nearly all the Italians except those actually in arms. In the following year, therefore, the political situation in Rome once more became the centre of interest. During the Social War the Senate had been in control and the Varian trials had relieved it of some troublesome enemies and also of some of its more critical friends. The elections for 88 B.C. had gone in its favour, for the two consuls, Q. Pompeius Rufus and L. Cornelius Sulla, were its loyal supporters. Pompeius appears to have been a typical conservative, but the same cannot be said of Sulla, whose rise to prominence at this time requires a little explanation. After his outstanding services in the Jugurthine War, he fought, with no very great distinction, in the Cimbric War, and then faded from the political scene for some years. Probably he had little interest in a public career except as a means to military glory and preferred a life of cultured ease and

<sup>1</sup> Appian, *Civ.* I, 54; Livy, *Epit.* 74; Val. Max. IX, 7, 4. Cf. Billeter, *Zinsfuss*, 153; Frank in *A.J.P.* LIV (1933), 54 f.; *id.* *Econ. Survey*, I, 268 f. For a different view see Bloch et Carcopino, *Hist. Rom.* 402.

<sup>2</sup> Pliny, *Nat. Hist.* XXXIII, 46. Cf. Mattingly, *Roman Coins*, 17.

pleasure. He did not resume his official career until war again became imminent, this time in Asia Minor, where the rival monarchs, Mithridates of Pontus and Nicomedes of Bithynia, had resumed their attempts to dominate their neighbours. In 95 B.C. the Senate intervened and ordered the two kings to evacuate the territory they had seized. The wishes of Rome could not yet be openly flouted, and Mithridates and Nicomedes retired within their own boundaries. The vacant throne of Cappadocia was given to Rome's nominee, Ariobarzanes. Mithridates now found a new tool in Tigranes of Armenia, who, at his instigation, invaded Cappadocia and expelled Ariobarzanes. In 95 B.C. Sulla sought election as praetor but was defeated. He succeeded in the following year and, in 92 B.C. as propraetor, was made governor of Cilicia, with the duty of recovering Cappadocia. Tigranes was soon beaten back, but Sulla's success was marred by his failure to win the goodwill of the King of Parthia, Tigranes' powerful neighbour, whose co-operation would have enabled Rome to establish in Asia Minor an equilibrium which was not attained until the time of Augustus. Sulla, therefore, returned to Rome without having dealt effectively with the ambitions of Mithridates. After some useful service in the Social War, he was received into the most exclusive circles of the aristocracy and, in 89 B.C., was elected consul and, as consul, was married to Caccilia Metella, a daughter of Metellus Delmaticus and niece of Metellus Numidicus. He further confirmed his allegiance to the senatorial cause by marrying his daughter to the son of his colleague, Q. Pompeius Rufus.<sup>1</sup> The Senate thus appeared to have consolidated its supremacy and at the same time to have secured the services of Rome's most successful general.

The opposition, though not completely crushed, was weak and divided. Marius had done valuable service against the Italians and still had a strong following among the masses, but his political ineptitude rendered him comparatively harmless and, at the age of sixty-seven or more, he was regarded as too old to rival Sulla as a commander.<sup>2</sup> The equestrian Middle Class, deprived of its monopoly in the law-courts and harassed by financial difficulties, was uncertain of its policy and deeply anxious about the fate of its investments in Asia Minor. Even now the Senate might have won it over by a bold policy in the East. Instead it showed an inexcusable blindness towards the danger from Mithridates. Since the departure of Sulla, the Pontic

<sup>1</sup> See P.-W. s.v. *Cornelius*, No. 392; Carcopino, *Sylla*, 28 f.

<sup>2</sup> Plut. *Marius*, 34.

king had resumed his aggressive policy and had taken advantage of Rome's preoccupation with the Social War to place his nominees on the thrones of Bithynia and Cappadocia. A senatorial commission, headed by M'. Aquilius, succeeded in restoring the rightful monarchs, but they exceeded their instructions by encouraging the Bithynian king to invade Pontus itself in order to obtain the means of paying back money they had lent him.<sup>1</sup> The protests of Mithridates were ignored by the Senate and the commissioners were allowed to push their aggression to the point at which Mithridates had no alternative but to fight. Only then was it realized that the Roman army in Asia was quite inadequate to meet his onslaught. Consequently the Senate may properly be held responsible for the Pontic invasion of Bithynia and Asia which culminated in the massacre of some 80,000 Italians there in 88 B.C.<sup>2</sup> From this the chief sufferers were the equestrian order. In addition to the murder of their friends and agents, their financial losses were so heavy that there was a collapse of credit in Rome itself.<sup>3</sup> After that there could be nothing but bitter enmity between Middle Class and nobles.

Nor was this the only case in which the Senate showed a lack of imagination and of generosity. The recent admission of the Italians to Roman citizenship could not be fully effective until they were enrolled as members of the tribes, classes and centuries which made up the assemblies. Censors were, indeed, appointed in 89 B.C. and, since the normal interval of five years had not elapsed since the previous censorship of 92 B.C., it may be assumed that it was intended that they should carry out the assessment and enrolment of the new citizens. But this was not done. Instead, the Italians were put into only eight of the thirty-five tribes and, possibly, into two new tribes created for the purpose.<sup>4</sup> It was the old reactionary policy, which had been applied also to freedmen, designed to ensure that the new citizens should not have a decisive voice in politics. It could not be acceptable to the Italians. They were not long in finding a spokesman.

Among the tribunes of 88 B.C. was P. Sulpicius Rufus, a close friend and supporter of M. Livius Drusus and heir to his policy of concessions to the allies. He had given up his patrician status in order to become a tribune, but not, apparently, with any intention of embarrassing the Senate, among whose members he had many

<sup>1</sup> Appian, *Mith.* 10 f. The suggestion of Reinach (*Mith. Eup.* 117 f.) that the *publicani* of Asia were involved in these loans, though quite feasible, is not supported by ancient evidence.

<sup>2</sup> Above, pp. 68, 79.

<sup>3</sup> Cicero, *Leg. Manil.* 19. Cf. Reinach, *Mith. Eup.* 128 f.

<sup>4</sup> Heitland, *Rom. Repub.* II, 447. Cf. Carcopino, *Sylla*, 33.

intimate friends, including the consul Pompeius.<sup>1</sup> A brilliant orator, he had made his reputation and at the same time revealed his moderate political attitude by prosecuting C. Norbanus in 94 B.C.<sup>2</sup> At the beginning of his tribunate he emphasized his moderation by vetoing a proposal to recall all men sent into exile without trial, i.e. the victims of the Varian law, though many of them, like Cotta, must have been his friends and political associates.<sup>3</sup> But when he saw the injustice of the Senate's approach to the registration of the newly-enfranchised Italians, he at once took up their cause, thus drawing upon himself a storm of calumny which has coloured the whole ancient tradition about his career.<sup>4</sup> He did not intend, however, to allow himself to be brushed aside like Livius Drusus, and he therefore made himself the rallying point for all those who were willing to resist the Senate. To gain popular support, he allied himself with Marius and proposed to transfer to him the command against Mithridates which had already been allotted to Sulla. This move would also please the equestrian Middle Class, who were naturally deeply interested in the recovery of Asia and had great faith in Marius but none at all in Sulla. As a further sop to them he proposed a law forbidding any senator to incur debts above 2,000 sesterces.<sup>5</sup> Sulpicius also reversed his policy with regard to the Varian exiles and promulgated a bill for their recall—no doubt in the hope of support from them and their friends. Finally, having secured a sufficient backing in the Assembly, he proposed to right the wrong done to the Italians by a law which provided for the enrolment of them and of the freedmen in all the thirty-five tribes.<sup>6</sup>

The Senate, faced with Sulpicius' determination to force through this group of laws, took refuge in religious obstruction. The consuls suspended public business by declaring a *iustitium*.<sup>7</sup> Sulpicius' reply was to organize a body of young Equites, whom he called his 'anti-senate' and whom he apparently intended to substitute for the Senate itself if necessary. In addition, he took precautions against senatorial violence by gathering a large band of armed men whom his enemies described as a bodyguard.<sup>8</sup> The inevitable riots followed, and in the clash Pompeius' son was killed and the senators routed. Sulla, in

<sup>1</sup> Cicero, *De Orat.* I, 25; III, 11; *De Amic.* 2; *Har. Resp.* 43; etc.

<sup>2</sup> Above, p. 128 f.

<sup>3</sup> *Ad Heren.* II, 45.

<sup>4</sup> See P.-W. s.v. *Sulpicius*, No. 92.

<sup>5</sup> Plut. *Sulla*, 8, 2. The precise purpose of this law is not clear, but it was probably an echo of the dispute which had culminated in the murder of Sempronius Asellio. Above, p. 139.

<sup>6</sup> For details and evidence see P.-W. *loc. cit.*

<sup>7</sup> Cf. above, p. 136.

<sup>8</sup> Plut. *Sulla*, 8, 2; *Marius*, 35. Cf. Appian, *Civ.* I, 55 f; Orosius, V, 19, 5.

his flight, took refuge in the house of Marius. What happened there is not recorded, but Sulla emerged to call off the *iustitium* and then departed to the army which had been gathered at Nola ready to accompany him to the East. From this the natural conclusion is that the rivals had reached an agreement whereby Sulla was to have his Mithridatic command in return for leaving Rome in the hands of Marius and Sulpicius. If that was so, Marius broke the agreement, for as soon as the Sulpician laws, including the one transferring the eastern command to him, were passed, he sent officers to take over Sulla's army on his behalf. But Sulla was resolved to retain his command at all costs. Against the advice of all but one of his senior officers, he accepted the suggestion of the troops that he should lead them against the Marians in Rome. No other act of Sulla's so clearly reveals his utter contempt for constitutional forms and conventions whenever they hampered his own career. It was the first open intervention of a Roman army in politics.

The few levies hastily assembled by Marius and Sulpicius were no match for Sulla's legions, and in a very short time the Marians were in flight and Sulla was master of Rome. His first act was to summon the Senate and persuade it to outlaw the leaders of the opposing faction. Sulpicius was caught and killed, and Marius escaped, with others, to Africa. Among those outlawed were some men who appear to have been of equestrian rank.<sup>1</sup>

Political prudence now demanded that Sulla should stay in Rome until he had re-established the senatorial party in full control of the city. A deputy could well have been sent to deal with Mithridates until Sulla himself was free. But again his military ambitions and his natural distaste for political manœuvre prevailed. He remained in Rome only long enough to carry through the sketchiest reorganization. For this temporary settlement our principal ancient authority is Appian, and it is unfortunate that he is suspect of having confused the measures of 88 B.C. with those of Sulla's dictatorship.<sup>2</sup> Even if, with some modern scholars,<sup>3</sup> we accept Appian's version completely, Sulla's arrangements are revealed as woefully inadequate to meet so dangerous a political situation. After cancelling the laws of Sulpicius,

<sup>1</sup> Q. and Cn. Granius, M. Laetorius and P. Albinovanus all belonged to equestrian families. See P.-W. s.vv.

<sup>2</sup> *Civ.* I, 59 f. In particular one may doubt Appian's statements about a reduction in the powers of the tribunate and the addition of 300 new members to the Senate. Livy's reference (*Epit.* 77) to colonies is also suspect. Cf. Carcopino, *Sylla*, 33 f.; Bloch et Carcopino, *Hist. Rom.* 407.

<sup>3</sup> e.g. C.A.H. IX, 206 f.; Lange, *R. Alt.* III, 125 f.



Sulla tried to ensure senatorial control of all future legislation by enacting that all measures must be submitted to the Senate before going to the Assembly. He also made changes in the assemblies themselves, the precise nature of which is disputed but whose general effect was to reduce, or even completely destroy, the voting power of the tribes in favour of that of the centuries. Both these measures represented a return to conditions which had existed before the great democratic movements of the second century B.C. began. They were purely reactionary, that is, and could have no chance of working successfully unless the Senate could recover the power and prestige it had once enjoyed. Sulla may, indeed, have attempted to strengthen the Senate by the addition of new members, but he cannot have achieved much in that direction in the time he allowed himself. There is some evidence that he and Pompeius tackled the problem of debt by a law fixing an interest rate of 12 per cent and possibly making some adjustment of debt repayment.<sup>1</sup> But no attempt was made to deal with the outstanding political problem, the admission of the new citizens into the tribes and centuries.

These arrangements were doomed to failure as soon as the Senate lost the backing of Sulla's army. That Sulla himself recognized this is shown by the fact that he sent his colleague, Pompeius Rufus, to take over the army in North Italy from Cn. Pompeius Strabo. Yet when Strabo refused to hand over and his troops murdered Pompeius Rufus, Sulla proceeded calmly with his preparations for departure. The attitude of the voters was also disquieting. In the elections for the consulship of 87 B.C., Sulla's nominees were defeated and, though one consul, Cn. Octavius, was a senatorial, the other, L. Cornelius Cinna, was well known to be a supporter of Marius. Nevertheless, after exacting from Cinna an oath of loyalty which he must have known Cinna had no intention of keeping, Sulla set off for the East, leaving Rome at the mercy of his enemies.

So far, things had gone badly for the Middle Class. Sulla disliked and distrusted them, and was not likely to serve their interests in Asia. Should his rehabilitation of the Senate prove successful, they could expect no help from that body. It was natural, therefore, that they should support Cinna in his efforts to undo what Sulla had done.<sup>2</sup> Cinna's first move, an attempt to recall Marius and the other exiles, led to the now usual violence and he found himself driven from Rome and deposed from his office. But there was a ready welcome

<sup>1</sup> Festus, *s.v.* *Unciaria lex*, p. 516. Cf. T. Frank in *A.J.P.* LIV (1933), 54 f.

<sup>2</sup> *Ascon.* p. 89; Appian, *Civ.* I, 63.

for him among the Italians, to whom he had promised the fulfilment of the policy of Sulpicius Rufus. He soon had forces large enough to enable him to besiege Rome. Marius, recalled from Africa, landed in Italy and soon gathered around him a motley gang of freed slaves and other desperadoes with whom he advanced to join Cinna. But Marius was now interested solely in revenge, and his first action must have filled his former friends, the business men, with dismay. In an effort to starve out senatorial resistance in Rome, he seized grain-ships, plundered merchants and did his utmost to paralyze the importation of food into Rome. Finally he attacked the port of Ostia and massacred most of its inhabitants, many of whom were business men or their agents.<sup>1</sup> Nor was the situation of the Middle Class any happier when Cinna and Marius finally succeeded in gaining possession of Rome. In the orgy of murders which followed their accession to power, many of the victims were men of equestrian rank, some of whom, no doubt, were supporters of Sulla, but most of whom were killed for the sake of their wealth.<sup>2</sup>

When, after the death of Marius, order was finally restored, Cinna and his faction began a period of rule which lasted until the return of Sulla in the spring of 83 B.C. The ancient tradition, which is almost uniformly hostile, depicts their regime as a sheer tyranny, unredeemed even by efficiency. Certainly the popular leaders were obsessed by the necessity to make preparations for the civil war which was bound to come when Sulla had disposed of Mithridates. Yet, in the short time at their disposal, they did attempt to satisfy the Italians and to tidy up the economic situation. After annulling Sulla's laws and appointing his colleague, L. Valerius Flaccus, to supersede Sulla in the Mithridatic command, Cinna re-enacted the laws of Sulpicius Rufus dealing with the Italians and the freedmen.<sup>3</sup> The task of enrolment and classification was entrusted to censors, L. Marcius Philippus and M. Perperna, but they seem to have been defeated by its complexity.<sup>4</sup>

In the economic field the Marians took more effective action, as indeed it was essential that they should if they were to avoid complete chaos. The inflationary measures of M. Livius Drusus and the Senate had made the coinage completely untrustworthy.<sup>5</sup> On top of

<sup>1</sup> Plut. *Marius*, 42. Cf. Livy, *Epit.* 79; Appian, *Civ.* I, 67; Orosius, V, 19, 17; Licinianus, p. 18 (Fl.).

<sup>2</sup> Appian, *Civ.* I, 71.

<sup>3</sup> Vell. Pat. II, 20, 2; Livy, *Epit.* 84; Ascon. p. 64; Scol. Gronov. p. 410 (Or.).

<sup>4</sup> Lange, *R. Alt.* III, 134 f. For Lange's theory that Cinna also repealed the *Lex Plautia Iudiciaria* and restored equestrian control of the jury-courts see above, p. 138.

<sup>5</sup> Cicero, *Off.* III, 80. Cf. above, pp. 138, 138.

this had come the financial crash due to Mithridates' invasion of Asia. The most immediate necessity was to relieve the heavy burden of debts, both public and private. The consul, Valerius Flaccus, passed a drastic law which reduced all debts by 75 per cent. According to Sallust, this *Lex Valeria* was passed 'with the consent of all loyal citizens', but Velleius Paterculus, himself of equestrian stock, describes it as 'disgraceful'. It is difficult to see what else could have been done, but it is hardly likely that the Middle Class would look upon the measure with any favour.<sup>1</sup> However, they would, as advocates of pure money, welcome the steps taken to clean up the coinage. In 85 B.C. a conference of praetors and tribunes decided to make provision for the assaying of coins and the withdrawal from circulation of all those found to be below standard. One praetor, M. Marius Gratidianus, a relative of Marius by adoption and probably himself a business man, appropriated the credit for these measures by announcing them prematurely as his own. The extravagant honours paid to him make it clear that the masses heartily approved the decision. It is equally obvious, from the brutal way in which he was tortured to death when Sulla returned in 82 B.C., that the senatorial class as strongly disapproved.<sup>2</sup> Not unnaturally, the equestrian financiers, having no safe investment for their money, now took to hoarding it, and so earned the title of 'walleeters' (*saccularii*).<sup>3</sup>

Meanwhile Sulla, frustrating the attempts of the Marians to dispossess him of his command, had recovered control of Asia and made his hasty and unsatisfactory peace with Mithridates at Dardanus. Of his settlement of the affairs of Asia we have already spoken.<sup>4</sup> It revealed his hatred of the Middle Class by destroying their tax-collecting contracts, but at the same time plunged the province into such a morass of debt that the Italian moneylender soon replaced the Italian publican as the scourge of Asia. In the spring of 83 B.C. Sulla sailed for Italy and the rest of that year was taken up by the civil war from which he finally emerged victorious in 82 B.C. He inaugurated his return to power by that series of cold-blooded murders known as the proscriptions. Inevitably a large proportion of the victims of the proscriptions were men of equestrian rank, who now paid for their support of Marius and Cinna with their lives and their property. It

<sup>1</sup> Vell. Pat. II, 23; Sallust, *Cat.* 33, 2. Cf. T. Frank in *A.J.P.* LIV (1933), 54 f.; Mattingly, *Roman Coins*, 94 f.

<sup>2</sup> Cicero, *Off.* III, 80; Pliny, *Nat. Hist.* XXXIII, 132; XXXIV, 27. Cf. P.-W. s.v. *Marius*, No. 42; Mattingly, *loc. cit.*

<sup>3</sup> Ascon. p. 89.

<sup>4</sup> Above, p. 68 f.

was a further exaggeration of their punishment that their families were deprived of certain of their citizen rights.<sup>1</sup>

Having got himself appointed dictator for an indefinite period, Sulla proceeded to carry into effect the policy he had failed to achieve in 88 B.C.—to place the Senate firmly back in the saddle. But first he had to ensure that it was a body capable of using the powers he proposed to give to it. Its numbers had been seriously depleted by the civil wars and proscriptions, and Sulla therefore enrolled some three hundred new members. It was all-important that these should be men who could be relied upon to carry out his intentions and to maintain the prestige of the senatorial order. We may therefore safely reject the statement of Sallust, who is in any case an unreliable authority because of his dislike of the Senate, that some of the new senators were common soldiers. The alternative version of Livy and Appian, that they came from the equestrian order, is equally unacceptable if we take that term to mean the equestrian Middle Class. For, as we have seen, Sulla was implacably hostile to that class. But there is strong reason for believing that Livy and Appian referred not to the Middle Class as a whole but to the eighteen centuries of *equites equo publico*.<sup>2</sup> If this assumption is correct, it throws an interesting light on Sulla's policy. Though, as a result of the exclusion of senators in 129 B.C., the equestrian centuries now contained a good proportion of members of the equestrian Middle Class,<sup>3</sup> there was in them still a considerable number of young senatorials performing their military service as a preliminary to entry upon public office. Moreover, the allocation of the public horse remained the prerogative of senatorial officials, the censors, so that senatorial influence in the equestrian centuries was still strong. It would not be difficult for Sulla to find there the three hundred men to complete his Senate without going outside the senatorial class at all. Moreover, he had good precedent for such a method of recruitment in the procedure adopted by another dictator, M. Fabius Buteo, after the battle of Cannae.<sup>4</sup>

Having thus strengthened the Senate, Sulla set to work to make it the main instrument of government by crippling any other element in the constitution likely to challenge its supremacy. Of these the most important was, of course, the tribunate of the plebs, which Sulla

<sup>1</sup> Appian, *Civ.* I, 95; 103; Florus, II, 9, 25; Cicero, *Clu.* 151; Sulla, 72; Q. Cicero, *Pet. Cons.* 9; Ascon. p. 89; Livy, *Epit.* 89; Vell. Pat. II, 28; Plut. Sulla, 31, etc.

<sup>2</sup> Sallust, *Cat.* 37, 6; Dion. Hal. V, 77; Livy, *Epit.* 89; Appian, *Civ.* I, 100. Cf. H. Hill in C.Q. XXVI (1932), 170 f.; R. Syme in *Papers Brit. Sch. Rome*, XIV (1938), 22 f.

<sup>3</sup> Above, pp. 105 f., 109.

<sup>4</sup> Livy, XXIII, 23. Cf. above, p. 41, 110. See also the judiciary law of M. Livius Drusus (above, p. 133 f.).

reduced to complete subjection to the Senate by a series of measures which there is no need to discuss here. By strict regulations about the tenure of other magistracies, he placed them, too, under the control of the senatorial class. Sulla's treatment of the censorship has been the subject of some controversy among scholars, but the general attitude is clear. The censorship was, in the wrong hands, capable of doing a great deal of harm to the aristocracy through the censors' power to select or reject members for the Senate and the equestrian centuries. Realizing this, the dictator, though he does not appear to have made any direct attack on the censorship, did not permit the appointment of censors, in spite of the obvious necessity for a complete revision of the census lists after the end of the Social War. He also attempted to render unnecessary the censorial recension of the Senate by a law providing for its automatic recruitment from ex-quaestors.<sup>1</sup> No provision seems to have been made for the other duties usually performed by the censors, though Sulla himself, as consul in 80 B.C., let some public contracts.<sup>2</sup>

Next to the magistracy, the Middle Class represented the most dangerous threat to senatorial supremacy. Cicero, for instance, speaking at the trial of Sex. Roscius in 80 B.C., describes the triumph of Sulla as a victory for the nobility and refers with considerable bitterness to 'those who were unable to endure the lustre of the Equites'.<sup>3</sup> In addition to the heavy losses he had inflicted by his changes in Asiatic taxation and by his proscriptions, Sulla struck still further blows at the political and economic power of the Middle Class. In politics its most effective weapon had been the juries, and although, as we have seen, it had probably not recovered the monopoly of jury service which it had lost under the Plautian law, it still had access to them.<sup>4</sup> Sulla now revoked the Plautian law and laid it down that in future the juries should consist exclusively of senators.<sup>5</sup> At the same time, as if to emphasize the importance of this move, he greatly extended the work of the jury-courts. In a series of laws he dealt with all major criminal offences from treason to assault, defining them, fixing penalties and making provision for their trial. As a result, the permanent court (*quaestio perpetua*), consisting of a president sitting with a jury, became the normal means for dealing with all offences

<sup>1</sup> Tacit. *Ann.* XI, 22.

<sup>2</sup> Above, p. 69. For some speculations about possible methods of recruiting the *equites equo publico* see Mommsen, *Staatsr.* III, 485 f. Cf. *id. ib.* II, 336 f.

<sup>3</sup> Cicero, *Rosc. Am.* 140, *al.*

<sup>4</sup> Above, p. 137 f.

<sup>5</sup> Cicero, *Rosc. Am.* 8; *Verr.* I, 37 f.; 49; II, 2, 76 f.; Ps.-Ascon. pp. 99; 102; 103; 145; 149; 161 (Or.); Scol. Gronov. pp. 384; 426 (Or.); Vell. Pat. II, 32, 3; Tacit. *Ann.* XI, 22, 9.

too serious to be tried by a magistrate alone. The permanent court was not, of course, an invention of Sulla's. We have seen that the first of them had been set up in 149 B.C. to deal with extortion in the provinces.<sup>1</sup> Thereafter juries had been used in special courts such as the Mamilian and Varian courts,<sup>2</sup> and there may also have been other permanent courts set up to deal with electoral corruption (*ambitus*), treason (*maiestas minuta*), embezzlement of public property (*peculatus*) and murder, though the evidence for these is slight and disputed.<sup>3</sup> Under the Sullan system we find at least seven permanent courts in existence, each dealing with a group of offences. In order to provide presidents for them, Sulla increased the number of praetors to eight, six of whom took charge of the courts, being assisted where necessary by specially appointed presidents.<sup>4</sup>

The effect of these far-reaching changes was very great. Trial by jury replaced for good the old process of trial before the people (*iudicium populi*),<sup>5</sup> so that senators now controlled the whole of Rome's criminal jurisdiction. Since four of the Sullan courts—those for extortion, electoral corruption, treason and embezzlement of public property—dealt with offences which could be committed, at this time, only by magistrates or those seeking a magistracy, senators were their own judges and so free from control by any other section of the community. It is true that Sulla, realizing the dangers of corruption inherent in such a system, tightened up the law of treason and revived an old law of C. Gracchus against those found guilty of improper use of judicial powers.<sup>6</sup> But there was, in spite of this, corruption in plenty, so that it took only ten years for the Romans to recognize the necessity for a change in the composition of the juries. But the Middle Class was never to recover its monopoly of jury service. It may be that, as a small compensation for the loss of all share in criminal jurisdiction, Sulla permitted certain civil suits to be decided before equestrian assessors.<sup>7</sup>

Economically the Middle Class had suffered enormous damage as a result of the Mithridatic War and the subsequent loss of their Asiatic contracts. Sulla had added to their troubles by omitting to

<sup>1</sup> Above, pp. 101, 108, 115.

<sup>2</sup> Above, pp. 119 f., 136 f.

<sup>3</sup> Modern authorities differ widely on this point, estimates of the number of permanent courts existing before Sulla varying from one to five. See especially J. Lengle in *Hermes* LXVI (1931), 302 f.; Greenidge, *Legal Proc.* 415 f.; Strachan-Davidson, *Problems*, II, 20 f.; and their references. Cf. above, pp. 115, 124 f.

<sup>4</sup> For details see the works referred to in the previous note.

<sup>5</sup> See above, p. 115.

<sup>6</sup> Cicero, *Pis.* 50; *Clu.* 151; above, p. 134.

<sup>7</sup> Greenidge, *op. cit.* 265; Zumpt, *Criminalrecht*, II, 2, 132 f.

make adequate provision for the policing of the Eastern Mediterranean, so that piracy once more became rampant, with disastrous effects upon trade.<sup>1</sup> Moneylending, as we have seen, still flourished and even increased, but Asia's impoverishment made it a risky speculation which could in no way make up for the almost complete cessation of other forms of business activity in a region once so profitable. Moreover, business in other parts of the empire must have been hard hit by the financial crash of 88 B.C.<sup>2</sup> Sulla seems to have made matters worse for the Middle Class by reverting to the traditional inflationary policy of the Senate, re-issuing some of the plated coins recalled by Marius Gratidianus.<sup>3</sup> He may also have revoked the Valerian law, though it is impossible to estimate the effect of this upon business activity.<sup>4</sup>

Sulla retired from public life in 79 B.C. and died in the following year. His constitution did not long survive him. It soon became clear that the senatorial class was incapable of bearing the burden he had laid upon it and that the opponents of the Senate, though silenced for a time, were not crushed. The year 78 B.C. produced a situation curiously similar to that of 87 B.C.<sup>5</sup> Of the two consuls one, Q. Lutatius Catulus, was a loyal senatorial, but the other, M. Aemilius Lepidus, was an outspoken critic of the Senate and of Sulla. The unsuccessful attempt made by Lepidus to set up a tyranny on Sullan lines, though not in itself, perhaps, of any great importance, brought out clearly the weaknesses of the system devised by Sulla. Lepidus, a former supporter of Sulla's who had greatly profited by the confiscations which accompanied the proscriptions, himself typifies those ambitious and unscrupulous senators who were ready to forget their loyalty to their class in order to gain some personal advantage. The inability of the Senate to crush the rising of Lepidus without the help of his former associate, Pompey, and the subsequent use made by Pompey of his military power and prestige to advance himself reveal a fundamental weakness, both moral and military, in the Senate. Finally, the programme put forward by Lepidus in order to attract support shows how numerous and varied were the sections of the population who had reason to desire the overthrow of Sulla's system. He bid for the support of the tribunes, the former recipients

<sup>1</sup> Appian, *Mith.* 63; 92; Plut. *Pomp.* 24.

<sup>2</sup> See above, p. 141.

<sup>3</sup> Above, p. 146; Frank in *A.J.P.* LIV (1933), 54 f.; Grueber, *Coins of the R. Repub.* I, xlii, n. 4; Mattingly, *R. Coins*, 94 f. But cf. Rice-Holmes, *R. Repub.* I, 53.

<sup>4</sup> Above, p. 146; Cicero, *Font.* 1 f. Cf. Frank, *loc. cit.*; Lange, *R. Alt.* III, 162.

<sup>5</sup> Above, p. 144.

of corn distributions, the exiled Marians, the families of the proscribed and the Italian former occupiers of land seized by Sulla.

This being so, it is significant that Lepidus did not, so far as we know, seek the support of the Middle Class. He is not credited with any proposal about the juries, the farming of taxes or anything else designed to attract the Middle Class. It may be, of course, that he believed them to be too thoroughly cowed to be of any assistance to him, but it is much more probable that he recognized that they were unlikely to throw in their lot with so blatant an attempt at revolution. In this their judgment was as sound as that of the young Julius Caesar, who also refused to have any truck with Lepidus.<sup>1</sup>

The Middle Class saw more hope of recovering lost ground in an accommodation with the Senate. There were many senators who had been shocked by Sulla's ruthless methods and who were ready to acquiesce in some modifications of his system. Moreover, the Senate could not afford any longer to stand alone. Surrounded by enemies at home, it faced also a threat of defeat by the Marians in Spain and the certainty of the renewal of war with Mithridates. It therefore needed all the support it could get. Nor could Rome afford to dispense permanently with the financial resources and undoubted commercial ability of the Middle Class. The virtual closing down of the trade of the Eastern Mediterranean by the pirates could not be allowed to continue, especially as the pirates were now openly collaborating with Mithridates in his war preparations. Thus it came about that the Senate decided, in 78 B.C., to make an all-out effort to destroy piracy in that area. A command in Cilicia was given to P. Servilius Vatia, with the specific task of clearing out the pirate lairs there. This was followed, in 74 B.C., by the appointment of M. Antonius to a special naval command against the pirates. Though the main motive was no doubt strategic, success in these operations could not but benefit the Middle Class. Unfortunately, Servilius and Antonius were not as successful as had been expected, but their campaigns at least prepared the way for the sweeping victories of Pompey in 67 B.C.<sup>2</sup>

In Rome the Senate was subjected to a great deal of pressure to relax its stranglehold on the constitution. Each year the demand was renewed that the restrictions placed upon the tribunate should be withdrawn. In addition there were agitations for the restoration of the corn distributions and the removal of disabilities from the families

<sup>1</sup> Sueton. *Div. Iul.* 3.

<sup>2</sup> See especially C.A.H. IX, 354 f. Below, p. 159 f.



of men proscribed by Sulla, as well as complaints from dispossessed Italian farmers. Gradually the Senate came round to the view that concessions must be made. The turning-point came in 75 B.C. with the consulship of C. Aurelius Cotta, former associate of M. Livius Drusus and victim of the Varian Commission.<sup>1</sup> We know of two laws passed by Cotta in this year, one which restored to tribunes the right to seek further office, and the other dealing in some unspecified way with civil suits. The latter may have contained some concession to the Equites.<sup>2</sup> Much more important, however, is the fact that, in allotting contracts, the consuls extended the field of operations of the publicans in Sicily and probably also resumed the letting of the Asiatic contracts suspended by Sulla.<sup>3</sup> The same year also saw the formal annexation of Cyrenaica, with further contracts for the business men.<sup>4</sup>

The spirit of compromise appears again in the amnesty granted to exiles and the partial restoration of corn distributions in 73 B.C. and in a series of measures for the recovery of some of the property obtained fraudulently under Sulla's regime.<sup>5</sup>

In one sphere, however, the Senate refused to relax its grip. Control of the jury courts was invaluable both to its prestige and to its freedom of action in the provinces. In the extortion court, in particular, the verdicts of the senatorial juries bore little or no relation to the case presented. It is true that a provincial governor was occasionally found guilty, but the evidence needed to be overwhelming, as in the case of Cn. Cornelius Dolabella, governor of Cilicia, who was condemned on the evidence of his own pro-quaestor, C. Verres.<sup>6</sup> But his namesake, governor of Macedonia, whom Caesar prosecuted in a brilliant speech in 77 B.C., was acquitted and Caesar had to retire to Rhodes to escape the consequences of his rashness.<sup>7</sup> The provinces despaired of getting justice in this court.<sup>8</sup> But bias of this kind was no new thing in trials for extortion, and in this respect the senatorial jurors were perhaps no worse than their equestrian predecessors.<sup>9</sup> A

<sup>1</sup> Above, pp. 132, 137.

<sup>2</sup> Ascon. pp. 66; 67; Ps.-Ascon. p. 200 (Or.); Sallust, *Hist. III, Frag.* 48, 8 (M.). Cf. above, p. 149.

<sup>3</sup> Above, pp. 55, 69 f. Below, p. 153 n. 7. For a different view see Frank, *R. Imp.* 316; 326, and in *C.Ph.* IX (1914), 191 f., who appears, however, to have overlooked the evidence for the presence of *publicani* in Asia when Lucullus arrived there in 74 B.C. That the tax-farmers were recovering their self-confidence is shown by their (unsuccessful) request for further concessions on the Sicilian contracts (Cicero, *Verr.* II, 3, 18).

<sup>4</sup> Above, p. 76 f.

<sup>5</sup> Lange, *R. Alt.* III, 185 f.; Rice-Holmes, *R. Repub.* I, 155.

<sup>6</sup> See P.-W. s.v. *Cornelius*, No. 135.

<sup>7</sup> Sueton. *Div. Iul.* 4; Plut. *Caes.* 4, etc.

<sup>8</sup> Cicero, *Verr.* I, 41.

<sup>9</sup> Above, pp. 130 f. Cf. Cicero, *Verr.* II, 3, 94 f.

much more sinister development was the growth of corrupt practices in the courts. The taking of bribes was, if we are to believe Cicero,<sup>1</sup> unknown in the equestrian courts. Now it became all too common. Q. Calpidius, found guilty of extortion in Spain, declared himself insulted by the small amount of the bribes needed to secure his condemnation.<sup>2</sup> More scandalous still was the trial of Oppianicus, found guilty of murder in 74 B.C. It subsequently transpired that the presiding judge, C. Iunius, and several jurymen had accepted bribes—in some cases from both prosecutor and defendant.<sup>3</sup> There were cases, too, where the courts were used to get rid of men likely to be troublesome to the leading members of the Senate.<sup>4</sup>

In these circumstances it is not surprising that a strong agitation developed to deprive the senatorial aristocracy of its monopoly of jury service.<sup>5</sup> When Pompey, returning from his successful elimination of the Marian threat in Spain, combined with Crassus to demand the consulship of 70 B.C., the main points in his programme were restoration of the tribunate and reform of the law-courts, and in both he had strong popular support.<sup>6</sup> Faced by the more or less open threat of Pompey and Crassus to use their legions, the Senate had to agree to their candidature, thus destroying the regulations laid down by Sulla about the holding of magistracies. Elected consuls, these two former supporters of Sulla proceeded to complete the overthrow of Sulla's constitution. All its old powers were restored to the tribunate and L. Gellius and Cn. Cornelius Lentulus were elected to the censorship.

The censors carried out a purge of the Senate—ejecting some sixty-four of the men promoted by Sulla. They also held the usual review of the eighteen centuries of *equites equo publico*, during which Pompey, by his ostentatious surrender of his public horse, underlined the fact that his promotion to the consulship direct from the equestrian centuries was completely irregular.<sup>7</sup> The census lists compiled by Gellius and Cornelius contained the names of 900,000 citizens as compared with 463,000 in the lists of 85 B.C. The great increase shows that the newly-enfranchised Italians were enrolled for the first time.

<sup>1</sup> Verr. I, 38.

<sup>2</sup> Cicero, Verr. I, 38; Planc. 69; Ps.-Ascon. p. 145 (Or.).

<sup>3</sup> Cicero, Clu. 89 f.; Verr. I, 29; II, 1, 157, and Scol.

<sup>4</sup> See the cases of C. Herennius (P.-W. s.v. *Herennius*, No. 7) and Q. Opimius (P.-W. s.v. *Opimius*, No. 11).

<sup>5</sup> Cicero, Clu. 61; 77; 127; 130; 136.

<sup>6</sup> Cicero, Divin. in Caec. 8; Verr. I, 45; Ps.-Ascon. p. 99 (Or.).

<sup>7</sup> Livy, Epit. 98; Cicero, Clu. 120; Plut. Pomp. 22; Apophth. Pomp. 6; Zonaras, X, 2. Some modern scholars have held that this pair of censors restored the tax-farming system in Asia; e.g. Rostovtzeff, *Hell. World*, 955; 966 f.; Carcopino, *Hist. Rom.* 530. Cf. above, p. 152.

Though it is evident that by no means all those eligible claimed enrolment, it is probable that most Italians who wanted their citizenship to be effective were admitted to the citizen body at this census.<sup>1</sup> Since many of the poorer Italians would not take the trouble to travel to Rome to claim their new privilege, it may be assumed that a considerable proportion of the new citizens were men of some wealth. Many would qualify for equestrian rank, so that they would swell the numbers of the Roman Middle Class. This was, indeed, not a new development, but merely an acceleration of a process which had been going on ever since Rome had begun her conquest of Italy. When Roman citizenship had been granted to an Italian community, its inhabitants naturally became liable for service in the legions, and the local aristocracy would often qualify for cavalry service.<sup>2</sup> Some rose even higher in the hierarchy of Rome and were admitted to the senatorial aristocracy. Cicero and Marius, for example, both came from the Volscian town of Arpinum, which was enfranchised in 188 B.C. There are many other examples of both senators and Equites of similar origin. The same thing happened, too, when Roman citizenship was extended to communities outside Italy, e.g. in Spain.<sup>3</sup> These new Equites had much the same interests as the old, so that the effect of the censorship of 70-69 B.C. was chiefly to increase the size, importance and power of the Middle Class. When Cicero, for example, claims the support of the whole of Italy (*tota Italia*) for his policy, he is generally alluding to these local equestrian aristocracies.<sup>4</sup>

Pompey's promise to reform the law-courts was honoured through the praetor, L. Aurelius Cotta, brother of the consul of 75 B.C. Cotta seems at first to have agitated for the restoration of the completely equestrian juries of C. Gracchus.<sup>5</sup> Naturally his suggestion was resisted by the Senate, but there is some evidence that it did not meet with the approval of the popular leaders either. They, remembering the *Lex Plautia*, would probably have preferred some more democratic method of selecting jurors.<sup>6</sup> While the matter was still under

<sup>1</sup> Frank, *Econ. Surv.* I, 314 f. Cf. above, p. 145.

<sup>2</sup> The best known example is that of the *equites Campani* frequently mentioned by Livy and other ancient writers, though there is some doubt whether they possessed full citizenship. See C.A.H. VII, 592 f.

<sup>3</sup> For Cicero see below, p. 163. For Marius see above, p. 120 f. For senators see Münzer, *Adelsp.* 46 f. (criticized in C.A.H. VII, 548 f.). For Equites see Belot, II, 80 f.; Syme, *R. Rev.* 78 f.; 285 f. For Spain cf. above, p. 85, n. 5.

<sup>4</sup> Syme, *loc. cit.*

<sup>5</sup> Cicero, *Verr.* II, 2, 174 f.; 3, 223 f.; 5, 177 f.; Ps.-Ascon. p. 127 (Or.). Cf. Livy, *Epit.* 97; Plut. *Pomp.* 22; Tacit. *Ann.* XI, 22, 10.

<sup>6</sup> Scol. Gronov. p. 386 (Or.). Cf. above, p. 137 f.

discussion, the notorious C. Verres, betrayer of Dolabella and ex-governor of Sicily, was brought to trial in the extortion court. His guilt was obvious but prominent senators, including the leading orator Hortensius, undertook his defence and he seemed likely to be acquitted. Cicero, prosecuting on behalf of the Sicilians, warned the jury that not only Verres but the whole jury system was on trial. A verdict in Verres' favour would finally discredit senatorial juries, whereas his condemnation might save them. The warning came too late, however. Although Verres, recognizing the hopelessness of his position in face of Cicero's brilliant advocacy, threw up his case and fled into exile, popular feeling was now so roused that some change in the jury system was inevitable.<sup>1</sup>

Eventually Cotta sponsored a law, the *Lex Aurelia*, which appears to have been the result of a compromise. No single class was to have a monopoly of jury service. Juries were to consist of three equal groups—senators, Equites and *tribuni aerarii*.<sup>2</sup> Of these three groups, the first—i.e. the senators—is the only one of whose composition we can be certain. The other two groups have been the subject of a great deal of discussion among modern scholars. It is natural to assume that the equestrian group belonged to the equestrian Middle Class defined by a census amount, as in the law of C. Gracchus. The alternative suggestion, that they may have been selected only from those members of that class who held or had held the public horse, has no support in the ancient evidence. The third group—the *tribuni aerarii*—are more difficult to identify. The title is an ancient one, belonging to the period when each tribe was a fiscal unit. It was applied to men whose duty it was to act as intermediaries between the tribes and their military contingents, paying the troops and probably collecting the *tributum* from their fellow tribesmen. In 70 B.C. the *tribuni aerarii* had long ceased to perform these functions, which had been taken over by the quaestors.<sup>3</sup> It appears, however, that the office had not been allowed to lapse and that *tribuni aerarii* continued to be appointed, probably by a vote of the tribes. It is clear from several passages of Cicero that the *tribuni aerarii* of the *Lex Aurelia* were of equestrian status—i.e. that they must, in order to

<sup>1</sup> Cicero, *Div. in Caec.* 8 f.; *Verr.* I, *passim*; II, 1, 4 f.; 19 f.; II, 2, 1; 77; 174; 180; II, 3, 168; 223; II, 5, 173 f.

<sup>2</sup> Ascon. pp. 17; 67; 78; Scol. Bob. pp. 229; 235; 339 f. (Or.); Scol. Gronov. pp. 384; 386 (Or.). Cf. Ascon. pp. 28; 39; 53; 55; 56; 61; 89; Ps.-Ascon. p. 103 (Or.); Cicero, *Ad Att.* I, 16, 3; *Sulla*, 64; Sueton. *Aug.* 32, 3; Sallust, *Ad Caes.* II, 3, 3.

<sup>3</sup> See especially Willems, *Le Sénat*, II, 357 f.; 407 f.

serve as jurors, possess the equestrian census amount.<sup>1</sup> If this view is correct, the compromise embodied in the *Lex Aurelia* favoured the Middle Class. It was believed that the danger of bribery demanded that jurors should be men of property and so, for the two non-senatorial groups, a minimum property qualification, that of the Gracchan jurors, was fixed. But simply to take two-thirds of the juries from the equestrian order would not have satisfied the tribunes, who insisted that there must be an element of popular choice as well. Hence the introduction of the *tribuni aerarii*, who represented the choice of the tribes but to whom the census qualification was made to apply in addition. In fact, therefore, the Middle Class supplied two-thirds of the jurors.<sup>2</sup>

By permitting the passage of the Aurelian law, Pompey and Crassus committed themselves to a policy of hostility to the conservatives in the Senate and of benevolence towards the Middle Class. In the case of Crassus this need cause no surprise for, being himself the richest of all the financiers, he had the same interests. The motives of Pompey are less easy to fathom. We have seen that his career up to this point had been completely contrary to Sulla's regulations and that his relations with the Senate were far from cordial. Throughout his life his political sympathies were always subordinate to his ambitions, and it is best to regard him as that typical product of this period, a purely self-regarding opportunist. His decision to champion, as consul, the cause of the Middle Class and the popular opposition was no doubt taken because he foresaw resistance from the Senate to any further attempts by him to step outside the limits of the normal senatorial career. His suspicions were justified, for no outstanding province was offered to him at the end of his consulship and he remained for two years a mere private citizen. He had, in fact, been outmanœuvred by his senatorial rivals. The only worthwhile military command at the moment was that in Asia Minor brought about by Mithridates' refusal to acquiesce in Rome's annexation of Bithynia in 74 B.C.<sup>3</sup> In Pompey's absence in Spain, the command in this Third Mithridatic War had, after some sordid intrigue, been allotted to L. Licinius Lucullus, a loyal senatorial. Lucullus, a nephew of Metellus Numidicus, had served Sulla faithfully in the Second Mithridatic War, even going to the length of allowing Mithridates

<sup>1</sup> Cicero, *Clu.* 121; 130; 150 f.; *Font.* 36; *Planc.* 41; *Rab. Post.* 13 f.; *Flacc.* 4; 96. Cf. *Sest.* 25; *Scol. Bob.* p. 229 (Or.); *Scol. Gronov.* p. 386 (Or.).

<sup>2</sup> For a more detailed discussion see Appendix II.

<sup>3</sup> See above, p. 70 f.

himself to escape from Pitane rather than co-operate with the Marian leader Fimbria in 85 B.C.<sup>1</sup>

On his arrival in Asia, Lucullus found that the province was on the verge of seceding to Mithridates for a second time, largely because of the economic distress caused by the exactions of Sulla and subsequently of Italian tax-farmers and moneylenders.<sup>2</sup> He succeeded in dissuading the Asiatics from repeating their former blunder and, by 72 B.C., he had relieved the province from any danger of invasion by defeating Mithridates and compelling him to flee to Armenia. Returning to Asia (71-70 B.C.), he carried through a series of measures designed to alleviate the financial condition of the province. He relieved the public treasuries by a tax of 25 per cent on natural products and by special taxes on houses and slaves.<sup>3</sup> He fixed the maximum rate of interest at 12 per cent simple, and cancelled any interest which exceeded the amount of the principal. One quarter of a debtor's income was to go for repayment of his debts. By these means the economic health of the province was rapidly restored.<sup>4</sup>

Fair as these measures were to debtor and creditor alike, they infuriated the Roman financiers, who had come to regard Asia as their own preserve. Lucullus was subjected, both in Asia and in Rome, to a campaign of vilification. His successes were belittled, his motives questioned and his soldiers, some of whom had been in Asia since their arrival with Fimbria in 86 B.C., suddenly found themselves receiving a great deal of unexpected sympathy.<sup>5</sup> Nevertheless, Lucullus pressed forward with his campaigns in Pontus and Armenia, and by 68 B.C. he was within sight of complete victory over both Mithridates and Tigranes. But he had driven his men too hard and, hearing of the enmity to their general in Rome, they were overcome by self-pity and refused to follow him further. So Lucullus had to stand by helpless while the enemy recovered first Armenia and then Pontus.

In Rome, the two years following the consulship of Pompey and Crassus were years of comparative calm. The full restoration of the tribunate had not yet made itself felt. In 67 B.C., however, there were among the tribunes two men of vigour—C. Cornelius and A. Gabinius—who resumed the tribunician onslaught upon the pre-dominance of the Senate. Cornelius set himself principally to combat

<sup>1</sup> Plut. *Luc.* 3.

<sup>2</sup> Plut. *Luc.* 7; *Sert.* 24.

<sup>3</sup> Appian, *Mith.* 83.

<sup>4</sup> Above, p. 69; Plut. *Luc.* 20. Cf. Cicero, *Acad.* II, 3. For a somewhat different view of these reforms see Cobban, *Senate and Provinces*, 195 f.

<sup>5</sup> Plut. *Luc.* 24; 30 f.; Cicero, *Leg. Manil.* 22 f.; Sallust, *Hist.* IV, 70; 73 (Maur.); Dio Cass. XXXVI, 2, 14 f.; Vell. Pat. II, 33, 1.

the corruption now all too prevalent.<sup>1</sup> Gabinius, probably by arrangement with Cornelius, took on a more spectacular rôle. Belonging to a family which had a special interest in the eastern provinces, he concerned himself mainly with provincial affairs. By this time, the position of Lucullus in Asia Minor had become extremely perilous. His mutinous troops, encouraged by the 'soldiers' friend', P. Clodius, had forced him to remain purely on the defensive.<sup>2</sup> His enemies in Rome were gradually stripping him of his powers. Asia had already been taken out of his hands in 68 B.C., and in 67 B.C. his original province of Cilicia was handed over to Q. Marcius Rex. His command was thus reduced to Bithynia and Pontus, and when the senatorial commission arrived to organize the latter as a province, they found it already reoccupied by Mithridates. It was clear that his campaigns were doomed to end in complete failure. Gabinius, therefore, was merely recognizing the facts when he passed a law transferring the Bithynian command to M'. Acilius Glabrio and disbanding those of Lucullus' troops who had been in Asia Minor since 86 B.C.<sup>3</sup> It is sometimes held that, in passing this law, Gabinius was acting in the interests of Pompey or of the Middle Class. But his precise connection with Pompey at this time is unknown<sup>4</sup> and all that we know of his relations with the Middle Class at any time is that they were generally unfriendly.<sup>5</sup> His main support on this occasion seems to have come from L. Quinctius, praetor in 67 B.C., who had, as tribune in 74 B.C., led the agitation against Sulla's Constitution.<sup>6</sup> It is a reasonable assumption, therefore, that Gabinius' motive, apart from a desire to clarify the situation in the East, was hostility to the Senate.<sup>7</sup>

The same motive is apparent, too, in another law which, though it may belong to his consulship (58 B.C.), is usually assigned to this year. It forbade provincials to raise loans in Rome. Besides protecting the provincials from exploitation, this law would fit in well with the measures taken by Gabinius' colleague Cornelius against bribery.<sup>8</sup> Gabinius is thus revealed as a popular leader doing his utmost to embarrass the senatorial government and to protect the interests of the provincials. It is not surprising, therefore, that he should, like

<sup>1</sup> See especially C.A.H. IX, 342 f.

<sup>2</sup> Plut. *Luc.* 24; 33; 34.

<sup>3</sup> Cicero, *Leg. Manil.* 26; Sallust, *Hist.* V, 13 (Maur.), etc.

<sup>4</sup> Cf. Syme, *R. Rev.* p. 31.

<sup>5</sup> Below, p. 179 f.

<sup>6</sup> Sallust, *Hist.* IV, 71 (Maur.); Plut. *Luc.* 33. Cf. *id. ib.* 5; Ps.-Ascon. p. 103 (Or.).

<sup>7</sup> Cf. Plut. *Luc.* 35.

<sup>8</sup> Cicero, *Ad Att.* V, 21, 12; VI, 2, 7. For a different view see Rice-Holmes, *R. Repub.* I, 131. Gabinius' concern for the welfare of the provinces is shown also in his law about embassies (Cicero, *Ad Quint.* II, 11, 3).

Caesar in 59 B.C., collaborate with Pompey, who was by now weary of comparative obscurity and anxious for new opportunities to distinguish himself.

Ever since the refusal of Sulla to take effective measures against the pirates of the Eastern Mediterranean,<sup>1</sup> the situation had been deteriorating in this respect. The campaigns of Servilius and Antonius<sup>2</sup> had achieved little and served merely to show that the normal types of naval and military command were inadequate to deal with the pirate menace. The whole Mediterranean and its coasts, not excluding those of Italy itself, were at the mercy of their raids, and Rome's food supplies were threatened. It is to the credit of Gabinus that he saw that the only effective method of dealing with the pirates was a simultaneous sweep over the whole Mediterranean area. For this none of the conventional magisterial *provinciae* was of any use, and he therefore boldly proposed the setting up of a comprehensive Mediterranean command, with adequate duration and with military, naval and financial resources sufficient to accomplish the task.<sup>3</sup> It was obvious that the only man capable of taking charge of such an operation was Pompey. Though the latter made his usual pretence of reluctance to accept the command, he deceived nobody, least of all Gabinus. The mass of the people naturally welcomed the proposal. Equally naturally it met with the fiercest opposition from the senators, with the exception of the few who, like Caesar, were committed to the popular cause.<sup>4</sup> Though there was, no doubt, behind this senatorial opposition, an element of purely personal feeling against Pompey and Gabinus, it cannot be denied that the grounds on which its leaders, Hortensius, Catulus and Cato, based their objections were sound. They argued that the concentration of so much power in the hands of one individual, however loyal, was dangerous to the constitution. Their fears were justified, for the Gabinian law was to prove 'a milestone on the road to monarchy'.<sup>5</sup>

In all this the Middle Class appear to have played little part.<sup>6</sup> They had just recovered their influence in politics and were still uncertain in which direction to use it. It is true that they would welcome Gabinus' solution of the problem of the Asiatic command, since they were anxious for the recall of Lucullus, but this does not mean that

<sup>1</sup> Above, p. 149 f.

<sup>2</sup> Above, p. 151.

<sup>3</sup> See especially Ormerod, *Piracy*, 231 f.

<sup>4</sup> Dio Cass. XXXVI, 24 f.; Cicero, *Leg. Manil.* 52; 57; Plut. *Pomp.* 25.

<sup>5</sup> C.A.H. IX, 347. On Gabinus and his policy see especially E. M. Sanford in *T.A.Ph.A.* LXX (1939), 64 f.

<sup>6</sup> Mommsen's view (*Hist. of Rome*, IV, 393) that they were as annoyed as the Senate has no basis.



they would give unqualified support to Gabinus. They would not, for instance, be likely to approve of his law about loans to provincials. Moreover, throughout his career Gabinus showed a marked hostility to the Middle Class.<sup>1</sup> Their spokesman, Cicero, was silent on the Gabinian law at the time of its adoption, and it was not until Pompey's success had justified the measure that he expressed approval of it.<sup>2</sup>

Among the colleagues of Gabinus there were two who ventured to oppose his piracy law.<sup>3</sup> L. Trebellius went so far as to veto it and was only persuaded to withdraw his veto by a threat of deposition. The other objector was L. Roscius Otho who, after but a half-hearted protest, withdrew his opposition. These two tribunes were clearly acting on behalf of the Senate, and it is therefore a reasonable assumption that Roscius was carrying out senatorial policy in proposing his well-known *Lex Theatralis*.<sup>4</sup> By this law Roscius restored to the equestrian order the privilege of sitting in special seats in the theatre—the fourteen rows immediately behind those in the *orchestra* reserved for senators. When this privilege had first been given to the Equites and when taken away is uncertain, but it is probable that it was first granted by C. Gracchus and then removed by Sulla.<sup>5</sup> It is in connection with this law that we first hear of a definite equestrian census amount—400,000 HS.—though, as we have seen, it was probably C. Gracchus who first established such a qualification.<sup>6</sup>

There can be little doubt that a conciliatory policy on these lines would have won over the Middle Class to support of the Senate. But, as in the period of the Gracchi,<sup>7</sup> there were elements in the Senate which objected strongly to any concessions. They were especially infuriated by the equestrian predominance in the law-courts, feeling it intolerable that a senator, whether at home or abroad, must constantly be on his guard against offending the Middle Class. The Middle Class, for their part, were on the lookout for any attempt to deprive them of their judicial powers. Inevitably the law-courts became a political battle-ground. As early as 69 B.C., in

<sup>1</sup> Below, p. 179 f.

<sup>2</sup> *Leg. Manil.* 52. Cf. *Red. in Sen.* 11.

<sup>3</sup> Ascon. p. 71 f.; Dio Cass. XXXVI, 24; 30; Plut. *Pomp.* 25.

<sup>4</sup> Cicero, *Mur.* 40; *Phil.* II, 44; *Ad Att.* II, 19, 3; XV, 3, 2; Ascon. p. 78; Vell. Pat. II, 32, 3; Livy, *Epit.* 99; Tacit. *Ann.* XV, 32; Pliny, *Nat. Hist.* VII, 116; Dio Cass. XXXVI, 42; Plut. *Cic.* 13. Cf. Cicero, *Ad Fam.* X, 32, 2; Pliny, *Nat. Hist.* XXXIII, 32; Sueton. *Div. Iul.* 39, 2; *Aug.* 40; *Calig.* 26, 4; *Domit.* 8, 3; Horace, *Epod.* IV, 15 f.; *Epist.* I, 1, 62; Juvenal, III, 152 f.; XIV, 323 f., and Schol.; Petronius, 126; Seneca, *Benef.* VII, 12, 4; Ps.-Quintil. *Declam.* 302.

<sup>5</sup> For a different view see Botsford, *R. Ass.* 357 f.; 428 f.; Lange, *R. Alt.* III, 202. Cf. Gerathewohl, 67.

<sup>6</sup> Mommsen, *Staatsr.* III, 499; 520 f. See above, pp. 47, 110 f.

<sup>7</sup> Above, p. 103 f.

the trial of P. Oppius, we find Cicero warning the equestrian jurors that, if they admitted written evidence from his superior officer against Oppius, they might find the same technique used against their own class.<sup>1</sup> More significant still was the dispute about the application of the existing law dealing with corrupt practices in the law-courts themselves.<sup>2</sup> The senators argued that this law, passed by Sulla, applied to all jurors irrespective of their rank, but the Equites retorted that it could apply only to senators, since only they were jurors when it was passed. The disagreement is well brought out in Cicero's speech for Cluentius in 66 B.C.<sup>3</sup> where, taking the point of view of the Middle Class, the orator voices its resentment against what he describes<sup>4</sup> as 'the few (senators) who want all the power in their own hands'. We are not justified in taking too literally either Cicero's picture of the self-righteous indignation of the Middle Class or his estimate of the number of senators who opposed his line of argument, for he was already developing that conception of the collaboration of the two upper classes (*concordia ordinum*) which was to become his political panacea.<sup>5</sup> But it is clear that Roscius' approach to the Middle Class was not universally approved.

Nor was there any disposition on the part of leading senators to placate Pompey or to forgive Gabinius for encouraging Pompey's ambitions. They did all they could to block Gabinius' further career, and their obstructive attitude caused Pompey once more to seek the support of the popular party and its tribunes. On the completion of his campaigns against the pirates, Pompey stayed in the East, obviously expecting to be given the command in Asia Minor now vacated by Lucullus. It was left to a tribune of 66 B.C., C. Manilius, to gratify his wish. Defeated by the Senate in an attempt to revive the old controversy about the votes of freedmen, Manilius retaliated by proposing, with enthusiastic popular support, his well-known law conferring upon Pompey extraordinary powers to deal with Mithridates and Tigranes.<sup>6</sup> This time the Middle Class did not hesitate. Cicero, speaking openly as their representative, made a clever and vigorous defence of Manilius' bill, in which he stressed the importance of a settlement of the affairs of Asia Minor for the financial stability of Rome and the safety and prosperity of her business men.<sup>7</sup> Senatorial opposition to the bill, based on the same arguments as those

<sup>1</sup> *Pro Oppio ap.* Quintil. V, 13, 21.

<sup>2</sup> Above, p. 149.

<sup>3</sup> 145 f.

<sup>4</sup> 152

<sup>5</sup> Below, p. 163 f.

<sup>6</sup> See P.-W. s.v. *Manilius*, No. 10.

<sup>7</sup> Cicero, *Leg. Manil. passim*, especially 4; 17 f. For a different account of Cicero's motives see Dio Cass. XXXVI, 43 f.

already used against the Gabinian law, was swept aside and Pompey was given the command. The results of his energetic action we have already discussed.<sup>1</sup>

Pompey was now easily the most powerful man in the whole Roman world. Like Sulla twenty years earlier, he brooded from Asia over the political scene in Rome. His position was, in fact, far stronger than that of Sulla, both militarily and politically, and there were few who doubted that he could and would return to Rome as its master. Every victory established him more firmly as the favourite of the masses, but the politicians, whether of the right or the left, hated and feared him. The senatorials had never forgiven him for his refusal to stay inside the constitutional framework set up by Sulla. The leaders of the popular opposition dreaded a repetition of Sulla's dictatorship. Distrust of Pompey's intentions was the only thing the two great political factions had in common, and each worked in its own way against him.

The Middle Class, though it had good reason to remember Sulla's return from Asia, was less apprehensive about Pompey. It has been held, indeed, that his conquests in Asia were made with an eye upon the commercial and financial interests of that class. But to adopt such a view is to overrate the influence of the Middle Class and to underestimate the purely personal ambition of Pompey himself. Nevertheless, the Middle Class undoubtedly stood to gain from those conquests and their support of the Manilian law could be expected to count in their favour should Pompey decide to make himself ruler of Rome.<sup>2</sup> They were fortunate, too, in their leader and spokesman, Cicero.

Opinions have differed widely, in both ancient and modern times, on the merits of Cicero and his policy. His undeniable vanity has caused him to be despised and underrated. His critics are many and vehement and have not hesitated to accuse him of cowardice, dishonesty, trimming and every other moral and political vice.<sup>3</sup> They have never explained, however, how a politician with no military backing and without even a reliable political following could expect to survive at all in this period without some apparent sacrifice of consistency.<sup>4</sup> While the senatorial conservatives allowed themselves to be blinded to the interests of the state, and even of their own class,

<sup>1</sup> Above, p. 70 f.

<sup>2</sup> See T. Frank, *R. Imp.* 316 f.

<sup>3</sup> See, e.g., Mommsen, *Hist. of Rome*, IV, 470 f.; Drumann-Groebe, *Gesch. Roms*, VI, 369 f., etc. For a defence of Cicero see Ciaceri, *Cic.*; Heinze, *Vom Geist des Römertums*, 59 f.

<sup>4</sup> See Cicero's defence of political 'tacking' in *Ad Fam.* I, 9, 21—*non idem semper dicere sed idem semper spectare debemus*. This whole letter well illustrates the difficulties of his position. Cf. *Planc.* 91 f.

by their dislike of Pompey, and the popular leaders planned revolution, Cicero used his supreme oratory, with a physical and moral courage quite foreign to his nature, to preserve the republican constitution. When all allowances have been made for exaggeration by Cicero or his friends, it remains true that it was he more than any other man who saved Rome from civil war at this time.

We have already seen him as the champion of the Middle Class against the Senate, and as their spokesman in favour of the Manilian law. In both cases he was critical of what he was careful to describe as a minority of the Senate which was opposed to the interests of the Middle Class and of Pompey. He was himself, as he was never tired of reiterating, of equestrian origin.<sup>1</sup> A 'new man', he had risen almost entirely by his own efforts to be a member of the senatorial class. His career largely explains and accounts for his policy. In his view the ideal constitution for Rome was the 'mixed' constitution of the middle Republic. The government, that is, should be republican with the Senate as its chief organ.<sup>2</sup> But it must be a Senate which, unlike the contemporary body, was concerned with the best interests of all classes, careful to preserve freedom and, above all, open to new blood and new ideas. Men like himself must not be excluded because of inferior birth.<sup>3</sup> As a reward for selfless devotion to public duties, senators would enjoy great power and prestige, but they must not try to evade responsibility for their actions. Next to them would stand the Middle Class, who should be allowed to pursue their commercial and financial activities freely, so long as they did not harm the state. Because their privileges were less, they must not be expected to conform to the high standards of public duty applied to the Senate.<sup>4</sup> Still lower in the social scale would come the mass of the people, happy under the efficient and benevolent rule of the Senate. With such a system, argued Cicero, Rome could continue to be prosperous and free, resisting the threat of tyranny which he rightly saw was growing ever stronger.<sup>5</sup>

This ideal of national unity under the guidance of the Senate was, of course, not new. Except for its insistence on the rights of the

<sup>1</sup> *Quinct.* 31; *Verr.* II, 2, 174; *Leg. Ag.* I, 27; II, 1 f.; *Mur.* 17; 47; *Planc.* 58 f.; 67; *Rab. Post.* 15; *Cael.* 4. Cf. *Sull.* 22 f.; *De Leg.* III, 36; cf. *Q. Cicero, Pet. Cons.* 13; *Ascon.* p. 82; *Juvenal*, VIII, 237 f.; *De Vir. Illust.* 81, 1; *Plut. Cic.* 11; *Sueton. De Orat. Frag.* 1; *Pliny, Nat. Hist.* XXXIII, 34.

<sup>2</sup> *Sest.* 137 f.; *Dom.* 94; *Repub.* I, 45; 54 f.; 70; II, 41; 56 f.; 69; *De Leg.* II, 23; III, 18; 27 f.; *Ad Att.* I, 20, 3.

<sup>3</sup> *Verr.* I, 15; II, 3, 7; 4, 81; 5, 180; 182; *Clu.* 111; *Leg. Ag.* II, 1 f.; 100; *Cat.* I, 28; *Mur.* 15 f. etc., etc.

<sup>4</sup> *Pro Oppio ap. Quintil.* V, 13, 21; *Clu.* 150; *Planc.* 32 f.; *Rab. Post.* 13 f.

<sup>5</sup> See Gelzer in *P.-W.* VIIA, 1, 972 f.; Ciaceri, *Cic.* II<sup>2</sup>, 173 f.

Middle Class, it closely resembled, as Cicero himself recognized, the policy pursued by the moderate aristocrats of the second century B.C.<sup>1</sup> As a practical programme, for which Cicero fought tenaciously whenever he saw a possibility of its succeeding, it took the form of the *concordia ordinum*—a coalition of Senate and Middle Class against both the extreme oligarchs in the Senate and the exponents of tyranny in the popular party.<sup>2</sup> It was often difficult and sometimes, as we shall see, impossible to reconcile the interests of the two classes. But this was not Cicero's worst problem. The real weakness of his policy was that such a coalition would be helpless against any aspiring tyrant with an army at his back.<sup>3</sup> Sulla had shown this only too clearly. Cicero, therefore, sought to gain a military backing for the *concordia ordinum* by conciliating Rome's greatest general, Pompey. He was quick to see, what so few of his contemporaries realized, that Pompey was no Sulla. His ambitions could be satisfied with less than complete domination and he could be persuaded to accept at least a nominal subordination to the civil power.

Cicero was under no delusion about the difficulty of controlling his triple team. The Senate, he knew, was jealous of its privileges, and some, at least, of its members cared more for their personal prestige than for the good of the state.<sup>4</sup> The Middle Class was only faintly interested in what form Rome's government would take, being concerned almost exclusively with its own affairs. Many fiercely resented even the small amount of senatorial control to which they were subjected, and they had already shown, by their use of their judicial power, that they would not easily consent to its being extended or even maintained. As for Pompey, he was probably the most problematical partner of the three. Supreme as a general, he was an incompetent politician and was therefore, like Marius, liable to be seduced by any clever political gangster who would feed his vanity. With such unpromising material did Cicero embark on his attempt to preserve the republican system, an attempt which lasted from the time of Pompey's departure to the East until the formation of the First Triumvirate (59 B.C.). It was obvious that concessions must be made by and to every one of the three partners to the coalition. In striving to obtain these concessions in order to preserve unity, Cicero laid himself open to the charges of trimming and worse

<sup>1</sup> *Ad Fam.* V, 7, 3. Above, p. 101 f.

<sup>2</sup> See especially Strasburger, *Conc. Ord.*; How in *J.R.S.* XX (1930), 24 f.

<sup>3</sup> *Ad Fam.* V, 21, 2.

<sup>4</sup> See, e.g., Lucullus, who, according to Plutarch (*Lucull.* 42), shared Cicero's political views but who allowed his personal animosity against Pompey to conquer his political good sense. Cf. *P.-W.* XIII, 407 f.

which we have mentioned above. But he never lost sight, nor must we, of the ultimate purpose they were intended to serve.

To the Senate as a whole he was studiously polite, reserving his strictures for a conservative minority which he describes as *pauci*, but without ever specifying more precisely who they were.<sup>1</sup> As consul he constantly consulted the Senate and expressed his eagerness to have its advice and support. Relations with the Middle Class were more complicated. Not only were they to be conciliated in Rome, but relations between them and senatorial officials in the provinces must be kept friendly.<sup>2</sup> To this end he was prepared, on occasions, to sacrifice even elementary honesty, so that when it came to a choice between the interests of business men and those of the native population of a province, the latter must be sacrificed to preserve the *concordia ordinum*.<sup>3</sup> In Rome there was a desperate economic situation for which the Middle Class, with its financial and commercial predominance, must bear a large part of the blame. The monetary crisis which followed the Asiatic adventures of Mithridates<sup>4</sup> had made interest rates soar. The result was an immense increase in the burden of debt, so that when Catiline finally decided to resort to force his main support came from the victims of debt.<sup>5</sup> While it is true that some of those victims were themselves of equestrian rank,<sup>6</sup> the main body of the Middle Class were Catiline's most vigorous opponents. Cicero indeed admits, half-humorously, that, in suppressing the conspiracy of Catiline, he had acted as the champion of the money-lenders.<sup>7</sup> It was a contribution he had to make to 'concord'.

Similarly, in seeking the support of Pompey he was forced to do things of which he was ashamed. Perhaps his earliest sacrifice in this respect was the service he performed for Manilius, a man for whom he had nothing but contempt. Immediately on laying down his tribunate in December of 66 B.C., Manilius was indicted by the senatorials, an obvious act of spite against Pompey. Cicero, who was praetor in that year, managed to stifle the prosecution and pacified the angry populace by promising to put his eloquence at Manilius'

<sup>1</sup> See Strasburger, *Conc. Ord.* 36 f.

<sup>2</sup> *Verr.* II, 2, 6 f.; *Leg. Manil.* 4; 15 f.; *Har. Resp.* 1 f.; 17; 60; *Rab. Post.* 13 f.; *Pis.* 41; 45; 64; *Prov. Cons.* 10; *Ad Fam.* I, 9, 26; II, 13; III, 8; XIII, 9, 2; 10, 2; *Ad Att.* V, 14, 1; VI, 1, 15 f.; 2, 4 f.; 3, 3; *Ad Quint.* I, 1, 6; 32 f.; III, 2; *Off.* III, 88, etc. Cf. the many letters of recommendation for business men to provincial governors, especially *Ad Fam.* XIII *passim*. Below, p. 170 f.

<sup>3</sup> *Ad Att.* II, 16, 4; *Ad Quint.* I, 1, 32 f.; below, p. 168; above, p. 82 f.

<sup>4</sup> Above, p. 141.

<sup>5</sup> Sallust, *Cat.* 33; 37 *al.*; Cicero, *Cat.* II, 17 f.; *Off.* II, 84; Val. Max. IV, 8, 3; Dio Cass. XXXVII, 30. Cf. R. Scalais in *Les Ét. Class.* VIII (1939), 487 f.; below, p. 168.

<sup>6</sup> Sallust, *Cat.* 17; 28; Cicero, *Cat.* I, 9; Q. Cicero, *Pet. Cons.* 10; Appian, *Civ.* II, 2.

<sup>7</sup> *Ad Att.* II, 1, 11. Cf. *Ad Fam.* V, 6, 2; *Off.* II, 84.

disposal in any future trial.<sup>1</sup> To see in this episode, as does Dio Cassius, merely an attempt by Cicero to further his own career is sheer prejudice. For the immediate future, the Senate was likely to be of far more use to Cicero's career.<sup>2</sup> But the Senate must not be allowed to alienate Pompey still further, nor to provide Crassus and Caesar with an opportunity to create disturbances for their own ends.

It is unnecessary here to give a detailed account of events in Rome during Pompey's absence. All students of Roman history are familiar with the sordid record of senatorial short-sightedness, the sinister intrigues of Crassus and Caesar and the astonishing career of the adventurer Catiline. It will be sufficient to trace the part played in all this by the Middle Class and Cicero's efforts to create and preserve the *concordia ordinum*. In general, Cicero retained the support of the Middle Class, but the Senate, or a section of it, did not show a consistent willingness to co-operate with either them or Pompey. Towards Pompey it maintained its attitude of suspicion and hostility. When a band of disappointed politicians, including Catiline, planned to murder the consuls of 65 B.C., it allowed Crassus to hush the matter up and even consented to the appointment of Crassus' protégé, the young reprobate Piso, to the province of Spain—probably as a *point d'appui* against Pompey.<sup>3</sup> In the same year the Senate engineered the prosecution of C. Cornelius, the tribune of 67 B.C. and a former quaestor of Pompey. Cicero defended him and the predominantly equestrian jury acquitted him.<sup>4</sup> But, without the support of the Senate, Cicero could do little to resist the schemes of Crassus and Caesar.<sup>5</sup> The trial of Catiline, also in 65 B.C., clearly shows his weakness. Accused of extortion in Africa, Catiline was guilty on the evidence both of provincials and of Italians resident in the province.<sup>6</sup> Yet Crassus secured his acquittal by bribery. From the first it was obvious that the bribery of jurors and the collusion of the prosecutor, P. Clodius, made acquittal certain. Cicero even contemplated accepting the brief for the defence in order to further his candidature for the consulship; but political honesty prevailed and he refused it.<sup>7</sup>

<sup>1</sup> Plut. *Cic.* 9, 6; Dio Cass. XXXVI, 44. For the subsequent fate of Manilius see P.-W. s.v. No. 10.

<sup>2</sup> *Leg. Ag.* II, 49. Cf. Sallust, *Cat.* 39, 1.

<sup>3</sup> Sallust, *Cat.* 18 f.; Ascon. p. 92.

<sup>4</sup> Above, p. 157 f.; P.-W. s.v. *Cornelius*, No. 18.

<sup>5</sup> See especially E. G. Hardy, *The Cat. Conspiracy*; E. T. Salmon in *A.J.P.* LVI (1935), 302 f.

<sup>6</sup> Cicero, *Ad Att.* I, 1, 1; Ascon. p. 85.

<sup>7</sup> P.-W. IIa, 1698. No political significance need be attached to Asconius' statement (p. 89) that it was the votes of the equestrian jurors which saved Catiline. Even if, as is improbable, the votes of the three groups of jurors were recorded separately at this time (below, p. 173), the verdict is explained by bribery, as is also the second acquittal of Catiline in 64 B.C. on charges connected with the proscriptions (Dio Cass. XXXVII, 10; Ascon. p. 90). The Middle Class had good reason to hate Catiline for his share in the proscriptions.

In 64 B.C. the Middle Class supported Cicero in his candidature for the consulship.<sup>1</sup> The Senate, at first, refused him its support, but gradually he overcame the traditional prejudice against 'new men'. Finally, with reluctance, Senate combined with Middle Class to get him elected consul for 63 B.C.<sup>2</sup> Cicero had thus, at one and the same time, achieved his two greatest ambitions—the consulship and the *concordia ordinum*. He was never to forget, or to allow others to forget, the year of his consulship. His excessive pride in his achievement has made him many enemies among his contemporaries and amongst those who have since studied his works, but it is a pardonable pride. For his success came at the right moment for Rome. Pompey's campaigns were nearing their end and his enemies redoubled their efforts to equip themselves to resist him when he returned. Throughout the year 63, Crassus and Caesar, with the help of a number of tribunes, did all they could to damage the prestige of Pompey and to disrupt the republican constitution. The Senate was but half-hearted in its resistance to these plots, since it, too, was apprehensive of Pompey's return. It was thus Cicero who, almost single-handed, defeated them by the exercise of his brilliant powers of oratory. Of the schemes he had to frustrate only two need concern us here.<sup>3</sup> An ugly situation, probably deliberately created to embarrass the consul, arose in the theatre when the people hissed Roscius Otho for his law giving special seats to the Middle Class. The Middle Class naturally retorted by applauding Roscius, and there was disorder. Cicero summoned a public meeting and spoke so persuasively that Roscius was received with popular applause and the incident was ended.<sup>4</sup>

A much more difficult problem was created for Cicero by some tribunes who championed the cause of the sons of the men proscribed by Sulla.<sup>5</sup> The disabilities which Sulla had placed on them still persisted, and it was clearly a matter of elementary justice to restore to them their civic rights and their fathers' property. The matter was especially awkward for Cicero because many of the men involved were of the equestrian order, and he had himself made a strong protest on their behalf in his speech for Sex. Roscius in 80 B.C. But to raise the question at this moment was to endanger the *concordia ordinum*, since many senators still revered the memory of Sulla and

<sup>1</sup> Q. Cicero, *Pet. Cons.* 3; 33; 50; 55. Cf. *id.* 29; 53.

<sup>2</sup> Plut. *Cic.* 10 f.; Sallust, *Cat.* 23; Ascon. p. 83.

<sup>3</sup> For the view that Cicero opposed the law of Rullus in the interests of the Middle Class see Belot, II, 304.

<sup>4</sup> Plut. *Cic.* 13; Cicero, *Ad Att.* II, 1, 3; Pliny, *Nat. Hist.* VII, 116; above, p. 160.

<sup>5</sup> Above, p. 146.



many others, both senators and Equites, had profited from the sales of property after the proscriptions. The speech in which Cicero defeated this agitation receives high praise for its adroitness from Quintilian.<sup>1</sup>

But perhaps the finest product of his oratory at this time was his defence of Murena, the man elected consul for 62 B.C. Here the threat to *concordia* came from the conservative senators, who resented the election of another 'new man' to succeed Cicero and so accused Murena, probably with justice, of corrupt practices. Whether he was guilty or not was of small account to Cicero. What was vital to Cicero's policy was that the consuls for 62 B.C. should be energetic men who could be trusted to continue his own line of action. The unseating of Murena, besides being a blow to all aspiring 'new men', would have encouraged Catiline. It would also have offended the Middle Class who were pleased with the way Murena had looked after their interests while governor of Narbonese Gaul.<sup>2</sup> His acquittal was due in great part to a magnificent speech in his defence by Cicero.

Finally, the 'cold war' of 63 B.C. threatened to become an overt attempt at revolution. Catiline, once more defeated in the consular elections, matured his famous conspiracy. So far, Cicero, with but little help from the Senate, had answered intrigue with intrigue, and the power of his oratory had sufficed to frustrate his enemies. But armed conspiracy was a different matter. Now his life was in danger and he had no adequate means of protecting himself or the state. Yet he failed to convince the Senate that any danger existed.<sup>3</sup> He was thus compelled to turn for protection to the Middle Class, which was naturally opposed to the policy of debt cancellation proclaimed by Catiline. With the help of his old friend Atticus, he gathered together a bodyguard of Equites and it was they who were his main support until he finally persuaded the Senate to allow the available military forces to be mobilized against the conspirators.<sup>4</sup> They followed the progress of the discussions in the Senate with great attention, and even went so far as to threaten violence to Caesar after his speech advocating imprisonment rather than death for the arrested conspirators.<sup>5</sup>

<sup>1</sup> Quintil. XI, 1, 85. Cf. Plut. *Cic.* 12; Cicero, *Pis.* 4; *Ad Att.* II, 1, 3; Dio Cass. XXXVII, 25; Pliny, *Nat. Hist.* VII, 116; Vell. Pat. II, 43, 4.

<sup>2</sup> Cicero, *Mur.* 42; 53; 69; 89.

<sup>3</sup> Cicero, *Cat.* I, 30; Sallust, *Cat.* 29. Cf. Carcopino, *Hist. Rom.* 639.

<sup>4</sup> Cicero, *Cat.* I, 21; 32; II, 25; IV, 15; 22; *Red. in Sen.* 12; 32; *Pis.* 7; *Sull.* 51; *Dom.* 74; *Sest.* 28; *Flacc.* 96; *Phil.* II, 16; 19; VII, 24; *Ad Att.* I, 14, 4; II, 1, 7; *Ad Quint.* I, 1, 32; *Nepos, Att.* 4; *Sallust, Cat.* 49, 4; Plut. *Cic.* 14. Cf. Dio Cass. XXXVII, 29.

<sup>5</sup> Sueton. *Diui. Iul.* 14; Plut. *Caes.* 8. Cf. Sallust, *Cat.* 49.

Cicero's success in holding together Senate and Middle Class to defeat Catiline forced Crassus and Caesar to change their policy. For Pompey was now on the point of returning home and there was no longer time to prepare against him. Crassus, probably because his jealousy was too strong to allow him to make any approach to Pompey, retired still more into the background, being content to finance Caesar. Caesar, who was praetor in 62 B.C., collaborated with Metellus Nepos, Pompey's agent and tribune in the same year, in a series of outrageous insults to Cicero and the Senate. Caesar's object is clear—to make it impossible for the Senate to receive Pompey with anything but suspicion and coldness. Pompey's attitude was, as usual, obscure. As a loyal republican he should have welcomed the suppression of Catiline, and this is clearly what Cicero expected him to do. Instead, he allowed Metellus to embarrass Cicero and the Senate, and so played Caesar's game. We possess a remarkable letter of Cicero's to him in which the orator, after expressing his disappointment with Pompey's recent manœuvres and with his failure to recognize the value of Cicero's services to Rome, offers to play Laelius to his Scipio—a clear indication of the lines on which Cicero hoped that the *concordia ordinum* would develop after its initial success.<sup>1</sup> But these overtures were coldly received, and it was not until after his return and when Crassus had already stolen his thunder that Pompey made adequate public acknowledgment of Cicero's achievement.<sup>2</sup>

When, at the end of 62 B.C., Pompey finally did return, he disbanded his army and behaved in every respect like any other returning governor. He thus confirmed Cicero's reading of his character, and the latter at once recovered confidence that he could complete his coalition by winning Pompey to his side.<sup>3</sup> It was a crucial moment. In view of the magnitude of his achievements in the East, Pompey's demands were not excessive. He asked, indeed, little more than was normally granted without question to victorious generals of this period—a triumph, land for his veterans and, most controversial of all, acceptance by the Senate of the settlement he had made after his victories by virtue of the extraordinary powers conferred by the *Lex Manilia*. Unfortunately for Cicero's dream, the other two partners to his coalition, Senate and Middle Class, chose this moment to create difficulties. In the Senate, the dominant faction was that led by Cato, the Stoic fanatic. Lucullus was his brother-in-law and

<sup>1</sup> *Ad Fam.* V, 7; *Cf. Cat.* III, 26; IV, 21; above, p. 163 f.

<sup>2</sup> *Ad Att.* I, 14; 16, 11; *Cf. Off.* I, 78; *Phil.* II, 12.

<sup>3</sup> *Ad Att.* I, 14; 16, 11. *Cf. above*, p. 164 f.

former commander, so that, though he could on occasion forget his Stoic principles for political ends,<sup>1</sup> he would countenance no concessions to Pompey. Backed by Lucullus, Hortensius and other prominent conservatives, he frustrated Pompey's attempts to get land allotments for his troops and insisted that his eastern arrangements be debated in detail in the Senate.<sup>2</sup> This group also damaged the prestige of both the Senate and the law-courts by their mishandling of the notorious sacrilege case of 61 B.C. When the young rake Clodius profaned the mysteries of the *Bona Dea* in pursuit of a love affair, his escapade might well have been passed off as a youthful frolic. But he had incurred the displeasure of Lucullus by fomenting mutiny in the eastern army and was a friend of Crassus.<sup>3</sup> His offence was therefore handled with portentous solemnity. The whole machinery of priesthood and Senate was used to bring him to trial. Cicero reluctantly gave evidence against him and thus incurred his lasting enmity. But Crassus saved Clodius, as he had saved Catiline, by bribery, and the only result of the affair was a blow to the republican cause.<sup>4</sup>

The flagrant bribery of the jury in this case gave Cato and his friends an excuse for once more raising the question of the liability of equestrian jurors to prosecution for judicial corruption.<sup>5</sup> Naturally this move aroused the resentment of the Middle Class, which was already suspicious of the delay in ratifying Pompey's eastern settlement. They were deeply interested in the fate of the eastern provinces and it would not suit their book if the Senate compelled Pompey to make drastic changes in his arrangements. They may even have begun to doubt the wisdom of Cicero's attempt to bring about a rapprochement between Pompey and the Senate, on the ground that it might involve too many concessions to Cato's point of view.<sup>6</sup> Relations between the two orders were further strained as a result of the censorship of 61 B.C. Apparently because still larger profits were expected from Asia after Pompey's conquests, competition for the Asiatic contract was very keen and it was let at a high price. The successful company, perhaps feeling that it had been too optimistic, approached the Senate with a request that the contract be cancelled.

<sup>1</sup> See Drumann-Groebe, *Gesch. Roms*, V, 200 f.

<sup>2</sup> Drumann-Groebe, *Gesch. Roms*, IV, 488 f.; V, 164 f.; C.A.H. IX, 506 f.

<sup>3</sup> Above, pp. 158, 166.

<sup>4</sup> Cicero, *Ad Att.* I, 16. Cf. I, 13; 14; 18; 19, etc.; Greenidge, *Legal Proc.* 386 f.

<sup>5</sup> Cicero, *Ad Att.* I, 17, 8; 18, 3; II, 1, 8. Cf. I, 19, 6; above, p. 161.

<sup>6</sup> Cicero, *Ad Att.* I, 17, 10; 20, 2; II, 1, 6. For another example of Cato's animosity to the publicans see Cicero, *Ad Att.* I, 19, 9. Cf. Tyrrell and Purser, *ad. loc.* and Byrne, *Atticus*, 7.

The request was not unprecedented,<sup>1</sup> but even Cicero could not, in private, repress his indignation. In public, however, because he must preserve his beloved *concordia*, he supported the claim. Crassus, too, no doubt for less worthy motives, gave it his support. Representatives of the tax-farming company were allowed to state their case in the Senate. The result was a noisy scene in which Cn. Plancius, head of the company, used some unparliamentary language against Cato and others who opposed his request. Cato replied by 'talking out' the business, and these tactics he repeated every time the matter was raised. The Senate, therefore, reached no decision. The whole episode was disastrous to Cicero's policy, and in his despair and disgust he tried hard to strengthen his hold on the goodwill of Pompey and even made overtures to Caesar.<sup>2</sup>

Naturally, the Senate's failure to meet the publicans' claims had repercussions in the province of Asia itself. The company's agents there tried to drive harder bargains in order to recoup themselves, and relations between them and the provincials were even worse than usual. It was therefore most unfortunate for Cicero that the governor of Asia at that time was his brother Quintus. Quintus was not prepared to make concessions to business men and was, moreover, very short-tempered. Cicero received many complaints of the tactless way in which his brother behaved and quotations from his letters and remarks which showed great hostility to business men. In his heart Cicero knew that his brother was in the right, but the political situation demanded that concessions should be granted. We therefore find Cicero imploring his brother to curb his temper and, while not neglecting his duty to the Asiatics, to do all he could to further the financial interests of the *publicani*.<sup>3</sup> In subsequent letters he affected to have found an improvement in Quintus' behaviour, but he was clearly not entirely satisfied. For when Quintus finally returned home in 58 B.C. Cicero, then himself in exile, was tortured by the fear that the Middle Class would have him prosecuted—a fear which proved groundless.<sup>4</sup>

Meanwhile the Senate maintained its hostility to Pompey. The

<sup>1</sup> Above, p. 89 f. Cf. Cicero, *Prov. Cons.* 10 f.

<sup>2</sup> Cicero, *Ad Att.* I, 17, 9 f.; 18, 7; 19, 6 f.; 20, 2 f.; II, 1, 7 f.; *Planc.* 33 f.; *Scol. Bob.* 259; 261 (Or.); *Off.* III, 88. Cf. *Mur.* 62; *Ad Fam.* I, 8, 4; *De Leg.* III, 40; Appian, *Civ.* II, 13; Dio Cass. XXXVIII, 7; Gellius, IV, 10. On access of *publicani* to the Senate cf. Cicero, *Ad Quint.* II, 11, 2; III, 2; *Har. Resp.* 1 f.; *Scol. Bob.* 259 (Or.). For some theorising on this episode see R. Laurent-Vibert in *Mél. d'Arch. et d'Hist.* (1908), 171 f. Cram (in *Harv. Stud.* LI (1940), 101) rejects the censorship of 61 B.C., but without giving adequate reasons.

<sup>3</sup> *Ad Quint.* I, 1, 2; *Ad Att.* II, 16, 4.

<sup>4</sup> *Ad Quint.* I, 3, 8 f.; 4, 2 f.; *Ad Att.* III, 8, 3; 9; 13, 2; 17, 1; 18, 2; 19, 2 f.

profits of his eastern campaigns enabled the treasury to dispense with almost its last source of revenue in Italy, the customs dues, which were unpopular as much for the inconvenience caused by the agents of the publican company which collected them as for their actual cost. Except for the few interested in their collection, therefore, nobody could object when Metellus Nepos, who was praetor in 60 B.C., proposed their abolition. It was, moreover, quite appropriate that the proposal should come from Pompey's former lieutenant, the tribune of 62 B.C. Yet the Senate tried hard to deprive Metellus of the credit for it.<sup>1</sup>

The same captious spirit was shown to Caesar when he returned from his Spanish governorship in the middle of 60 B.C. While in Spain he had done much to restore the financial health of the province by measures similar to those put through by Lucullus in Asia, thus showing no desire to spare the feelings of equestrian financiers.<sup>2</sup> Having had considerable military success, he claimed a triumph but also made a request that he be allowed to stand for the consulship of 59 B.C. in absence. He found the Senate no more willing to placate him than it had Pompey, and was compelled to resign his triumph in order to gain the consulship. Moreover, the Senate chose as the 'province' for the consuls of 59 B.C. the ridiculously inadequate charge of the *silvae callesque*—thus indicating its intention to block Caesar's further advancement.

For a short time Cicero hoped that he might win even Caesar for his republican coalition.<sup>3</sup> But their common grievances inevitably drew Caesar and Pompey together in opposition to the Senate. Crassus was persuaded to join them, and the three formed the so-called First Triumvirate. Cicero, too, was invited to co-operate with them but, after some hesitation, he decided to continue his efforts to hold Senate and Middle Class together without military backing. It was a gallant decision, but the task was beyond his power.<sup>4</sup> The new coalition, though an uneasy one, was strong enough to secure the election of Caesar as consul for 59 B.C., and Caesar, as part of his *quid pro quo* to Crassus, granted to the Asiatic publicans a reduction of one-third in the purchase price of their contract. Precisely how this was done is not known, but it is probable that Caesar, like Ti. Gracchus,<sup>5</sup> encroached on the financial prerogatives of the

<sup>1</sup> Dio Cass. XXXVII, 51. Cf. above, pp. 53, 169.

<sup>2</sup> Plut. *Caesar*, 12; Cicero, *Balb.* 43; *Bel. Hisp.* 42, 2; above, p. 157.

<sup>3</sup> *Ad Att.* II, 1, 7.

<sup>4</sup> Cicero, *Ad Att.* II, 3, 3 f.; *Prov. Cons.* 41; *Pis.* 79. Cf. *Ad Att.* IV, 5, 6.

<sup>5</sup> Above, p. 103.

Senate by passing a law granting the reduction through the Assembly.<sup>1</sup>

Caesar's concession naturally pleased the Middle Class and, knowing that he must expect nothing but obstruction from the Senate, he tried to detach the Middle Class from Cicero's *concordia* by treating the two classes differently. Thus he passed a most elaborate law dealing with extortion in which he regulated all the activities of senatorial provincial governors in the minutest detail. But he did not clear up, as he easily could have done by this law, the long-standing question of whether a non-senatorial could be accused of extortion. Nor did he define precisely the scope of the supplementary charges which could be brought against the associates, whatever their rank, of men found guilty of extortion.<sup>2</sup> Nor did he alter the composition of the juries, allowing the equestrian order to retain its majority in them. He further stressed the distinction between the two classes of jurymen by a law, passed by the praetor, Q. Fufius Calenus, which laid down that the three groups of jurors should record their votes separately, so that any disagreement between senatorial and non-senatorial jurors would be clearly revealed.<sup>3</sup> To some extent Caesar was successful in this policy. The Middle Class tolerated the new regime, though without much enthusiasm.<sup>4</sup> But there were elements in the programme of the Triumvirs which caused them uneasiness. The gain in Asia, for instance, would be to some extent offset by the loss in tax-farming revenue which would result from Caesar's proposed distribution of the Campanian public land under his land law.<sup>5</sup> More important was the general apprehension caused by Caesar's unconstitutional procedure as consul. His neglect of the protests of his colleague, Bibulus, caused anxiety even to Pompey, and there were ugly rumours of possible massacres, recalling Sulla and his proscriptions.<sup>6</sup> Moreover, some of the tools of the Triumvirs were men disliked and feared by all men of property. Vatinius, one of the tribunes, had already fallen foul of the business community of Puteoli during his quaestorship in 63 B.C., and the praetor Q. Fufius Calenus

<sup>1</sup> Appian, *Civ. II*, 13; Val. Max. *II*, 10, 7; Sueton. *Div. Iul.* 20; Cicero, *Ad Att.* *II*, 16, 2; *Planc.* 35; Dio Cass. XXXVIII, 7; Scol. Bob. p. 261 (Or.). Cf. Cicero, *Vat.* 29. Caesar may have adopted this method to avoid the possibility of collusion among the *publicani* if he merely ordered a fresh auction.

<sup>2</sup> Cicero, *Rab. Post.* 12. For detailed discussion of this law see Drumann-Groebe, *Gesch. Roms*, III, 195 f.

<sup>3</sup> Dio Cass. XXXVIII, 8. Cf. P.-W. s.v. *Fufius*, No. 10. The jury law of Vatinius (Cicero, *Vat.* 27) does not appear to have had any special application to equestrian jurors.

<sup>4</sup> Cicero, *Ad Att.* *II*, 16; 21.

<sup>5</sup> Cicero, *Ad Att.* *II*, 16, 1.

<sup>6</sup> Cicero, *Ad Att.* *II*, 16; 21; 24.

was well known as a friend of Clodius and an enemy of Cicero. Worst of all, Pompey's candidate for the consulship of 58 B.C. was the hated Gabinus.<sup>1</sup>

The silencing of Bibulus made it clear that the Triumvirs were masters of the political field. Backed by threats of military force from Pompey, Caesar passed what measures he liked in the Assembly. But there were other spheres in which opposition was not so easy to crush. Cicero records an occasion in the theatre when, after certain passages of the play regarded as appropriately critical of Pompey had been applauded, Caesar's entry was received in silence whereas clapping greeted that of his boldest opponent, the younger Curio. The occupants of the seats reserved for Equites joined in this demonstration and were threatened with cancellation of the Roscian law.<sup>2</sup>

In the law-courts, too, the equestrian order still had the upper hand over both Senate and Triumvirs, and it was here that Cicero fought out his battle for the preservation of the *concordia ordinum*. His position was peculiarly difficult in this period. He still had hopes of detaching Pompey from Caesar, and even Caesar himself was anxious to retain his goodwill. Cicero alternated between hope and despair about the fate of his coalition. Pompey, as usual, concealed his real feelings—promising Cicero protection against Clodius and at the same time encouraging Clodius against him.<sup>3</sup> Cicero used the courts as a platform from which to defend his policy. His enemies retaliated by an all-out attack upon his action against the Catilinarian conspirators. C. Antonius, his colleague of 63 B.C., was prosecuted on an unknown charge, probably *maiestas*, and defended by Cicero himself. He took the opportunity to deliver a fierce onslaught on the Triumvirs, but his appeal to the jury to vindicate his action in 63 B.C. by acquitting Antonius was ineffective in view of the evil reputation of his client. Antonius was found guilty and went into exile.<sup>4</sup> In defending another of his associates, L. Valerius Flaccus, Cicero was more successful. Basing his case mainly on the services of Flaccus to the republican cause as praetor in 63 B.C., he made a strong appeal to the jury to show by an acquittal their abhorrence of any attempt at

<sup>1</sup> Cicero, *Vat.* 12; above, p. 158.

<sup>2</sup> Cicero, *Ad Att.* II, 19; *Val. Max.* VI, 2, 9; above, p. 160. There is no need to try to explain away this action as due to a minority of the Middle Class, as do Strasburger, *Conc. Ord.* p. 50 f. and How on Cicero, *ad loc.* The equestrian benches were open to all members of the Middle Class and the story merely reflects the uncertainty of middle-class opinion at this time.

<sup>3</sup> For references see Meyer, *Caesars Mon.* 72 f.

<sup>4</sup> Dio Cass. XXXVIII, 10 f. Cf. Cicero, *Dom.* 41; Sueton. *Div. Iul.* 20. For details of this trial see Ciaceri, *Cic.* II, 40 f.

domination. Reminding them that the courts at least were still free, he urged them to use this opportunity of proving that the *concordia ordinum* still lived.<sup>1</sup> Flaccus was acquitted, but the Triumvirs had achieved their main object, which was to prevent his election to the consulship of 58 B.C. Caesar, on the other hand, secured the acquittal of his father-in-law, Piso, in time for him to be elected consul along with Pompey's nominee, Gabinius. He also made Cicero's position still more precarious by arranging for Clodius to be adopted as a plebeian and elected tribune. Thus the ultimate victory in 59 B.C. rested with the Triumvirs.

The next year (58 B.C.) was disastrous for Cicero and his republican coalition. Though Pompey remained in Italy to watch over the interests of the Triumvirate in Caesar's absence in Gaul, the real master of Rome was Clodius. After passing a series of measures which were designed to prevent the opposition from using even the methods which had proved ineffective against Caesar and to legalize his own tactics of mob violence, he set to work, with the connivance of the consuls, to get rid of Cicero and Cato.<sup>2</sup> His gangs dominated the streets of Rome, and no one could be any longer in doubt that resistance would be met by force. Nevertheless, both Senate and Middle Class showed great courage in defence of Cicero. The Middle Class, in particular, was very tenacious, going into mourning and making frequent appeals to the Senate and the magistrates not to give way to Clodius. Such, indeed, was their vehemence that Cicero himself seems to have thought that they would even have fought for him, if necessary. It was not until their leader, L. Aelius Lamia, was actually driven into exile by Clodius that they gave way.<sup>3</sup> Cicero accepted the advice of his friends, including Cato, and went into exile to avoid civil war. Subsequently he repented of his decision and bitterly blamed his friends, including the Middle Class, for what he called their weakness.<sup>4</sup> His petulance was understandable but unjust, for a civil war could only have ended in victory for Clodius, backed by the troops which Caesar had ready to lead to Gaul. The decision to yield was unavoidable. Cicero's departure for exile was eased by

<sup>1</sup> Cicero, *Flacc.* 1 f.; 66; 94 f. Cf. *Ad Att.* II, 21, 6; *Ad Quint.* I, 2, 16.

<sup>2</sup> Dio Cassius (XXXVIII, 12 f.) is surely wrong in suggesting that Clodius tried by these laws to win the goodwill of the Senate and the Middle Class.

<sup>3</sup> Cicero, *Sest.* 17 f.; 25 f.; 35; 38; 52; *Dom.* 55 f.; 96; *Red. in Sen.* 12; 32 f.; *Red. ad Quir.* 13; *Har. Resp.* 5; *Pis.* 11; 32; 64; *Planc.* 87; *Ad Att.* II, 22, 3; 23, 2; *Ad Quint.* I, 2, 16; Dio Cass. XXXVIII, 16; Plut. *Cic.* 30 f. For the exile of Lamia see Cicero, *Sest.* 29; 52; *Pis.* 23; 64; *Red. in Sen.* 12. *Ad Fam.* XI, 16, 2; XII, 29, 1; Ascon. p. 9; Scol. Bob. pp. 271; 296 (Or.); Dio Cass. *loc. cit.*

<sup>4</sup> *Ad Att.* III, 15; IV, 1; *Ad Quint.* I, 4, 4; *Red. in Sen.* 33. Cf. Dio Cass. XXXVIII, 17, 6.



his equestrian friends, C. Rabirius Postumus lending him money and Atticus taking charge of his business affairs in his absence.<sup>1</sup>

With Cicero in exile and Cato in virtual banishment in Cyprus,<sup>2</sup> Clodius was completely master of the streets of Rome. No one, not even Pompey, dared openly to defy his gangs of ruffians. Nevertheless, efforts were begun almost at once to recall Cicero. In these agitations, too, the Middle Class played a conspicuous part.<sup>3</sup> But it was not until Pompey had consented to support his recall that Cicero was able to return to Rome. Though he was still inclined to mistrust the loyalty of his friends,<sup>4</sup> he soon convinced himself, with his usual buoyancy, that it was possible to revive the *concordia ordinum* and even to regain for it the support of Pompey. His proposal that Pompey be given control of the corn supply, though mainly intended to show his gratitude, recalls his support of the Manilian law in its purpose of giving Pompey wide powers to restore the economic stability of Rome.<sup>5</sup>

The events of the first few months of 56 B.C. seemed to justify Cicero's optimism. Pompey showed signs of tiring of his association with Caesar, and Clodius' gangs were at last successfully challenged by the rival gangs of Milo. One of the consuls, Lentulus Marcellinus, was an enemy of Clodius and the Triumvirs and a friend of Cicero. Further, a series of important trials were pending, and the Senate strongly supported Marcellinus in his determination to see that justice was done. Cicero was confident that, given honest jurors, he could recover his old predominance in the courts.<sup>6</sup> He secured the acquittal of P. Asicius, a protégé of Pompey, charged with the murder of the Alexandrian ambassador Dio.<sup>7</sup> The cause of concord suffered a setback with the ill-timed prosecution of Sex. Clodius, kinsman and tool of Cicero's enemy, who was acquitted on a charge of violence by the votes of senatorial jurors who disliked Pompey. But the equestrian jurors were mainly loyal.<sup>8</sup> Cicero gained an ample revenge when he successfully defended first L. Calpurnius Bestia and then P. Sestius. In his speech for Sestius he repeatedly claimed that he had the support

<sup>1</sup> Cicero, *Rab. Post.* 47.

<sup>2</sup> Above, p. 72.

<sup>3</sup> Cicero, *Sest.* 68; 87; *Pis.* 41; *Red. ad Quir.* 16; 18; *Dom.* 74; 142; *Har. Resp.* 17; *Vat.* 8; *Mil.* 94. Cf. *Ad Att.* IV, 1, 4; *Ad Fam.* I, 9, 16. There is no evidence for the suggestion of Strasburger (*Conc. Ord.* 50) that equestrian support was withheld until the Triumvirs had agreed to the recall. Cf. Ziegler, *Atticus*, 30 f.

<sup>4</sup> *Ad Att.* IV, 1, 8; 3, 2; *Ad Fam.* I, 9, 4.

<sup>5</sup> Cicero, *Dom.* 3 f.; *Ad Fam.* I, 9, 14; *Ad Att.* IV, 1, 6; Dio Cass. XXXIX, 9 f.; Plut. *Pomp.* 49; Livy, *Epit.* 104; above, p. 161 f.

<sup>6</sup> Cicero, *Ad Quint.* II, 1, 4, 6; *Har. Resp.* 7.

<sup>7</sup> Cicero, *Cael.* 23. Cf. R. G. Austin, *ad loc.*

<sup>8</sup> Cicero, *Ad Quint.* II, 4, 6; *Cael.* 78.

of the Middle Class, and his claim was borne out by a unanimous verdict in his client's favour.<sup>1</sup> P. Vatinius, Caesar's famous protégé and a witness against Sestius, was fiercely attacked by Cicero.<sup>2</sup>

Thus, despite some senatorial opposition to Pompey, there was hope of a renewal of the old coalition of Senate, Middle Class and Pompey. Marcellinus, the consul, took the lead in defying Clodius, then aedile, at the celebration of the Megalesia in April, and was enthusiastically backed by both senators and Equites. Clodius retaliated by attacking the *publicani* when they appeared before the Senate. But Cicero vigorously defended them and there were lively scenes in the House.<sup>3</sup> The attitude of Pompey was still in doubt, but Cicero, backed by a majority of the Senate, made what he calls an 'assault upon the citadel' of the Triumvirate by proposing that the Senate should, in May, discuss the legality of Caesar's land law of 59 B.C.<sup>4</sup> The aim was clearly to drive a wedge between Caesar and Pompey which would split the Triumvirate and bring the latter over to the side of the republicans. But Caesar could not allow this to happen. He hastily summoned his two partners to a conference at Luca in Cisalpine Gaul and there, in April, they renewed their coalition. When the time came to discuss Cicero's proposal it was too late. The situation of 60 B.C. had returned and the *concordia ordinum* was in ruins.<sup>5</sup>

Cicero had to accept the fact and make his peace with the Triumvirs. In his speech *De Provinciis Consularibus*, delivered in June, he opposed the recall of Caesar from Gaul, and in the autumn he appeared in court with Pompey and Crassus to defend the trusted subordinate of Caesar, L. Cornelius Balbus, against the charge of illegally usurping the citizenship.<sup>6</sup> There was a brief resurgence of opposition when the news leaked out that Pompey and Crassus were to stand for the consulship of 55 B.C. Clodius was assaulted by senators and Equites for supporting their candidature.<sup>7</sup> But the return of Cato from Cyprus in November brought more bitterness between the two classes. Moreover, Cicero and Cato quarrelled about the validity of the measures of Clodius' tribunate, thus playing into the hands of their masters.<sup>8</sup>

In January or February of 55 B.C. Pompey and Crassus became consuls together for the second time. By then Cicero had given up

<sup>1</sup> Cicero, *Sest.* 17 f.; 25 f.; 35; 38; 52; 68; 87. Cf. 97; 137; 143; *Ad Quint.* II, 3, 6; 4, 1.

<sup>2</sup> *In Vat.* passim; *Ad Quint.* II, 4, 1.

<sup>3</sup> Cicero, *Har. Resp.* 1 f.; 22.

<sup>4</sup> *Ad Fam.* I, 9, 7 f.; *Ad Quint.* II, 5, 1.

<sup>5</sup> *Ad Quint.* II, 6, 2; *Ad Fam.* I, 8, 4; *Ad Att.* IV, 5, 1.

<sup>6</sup> *Pro Balbo*, passim. Cf. *Ad Att.* IV, 5, 6.

<sup>7</sup> Dio Cass. XXXIX, 29, 2.

<sup>8</sup> Dio Cass. XXXIX, 21; Plut. *Cic.* 34; *Cato Min.* 40.

hope of maintaining the *concordia ordinum*, for whose collapse he blamed those senators who had alienated both Pompey and the Middle Class.<sup>1</sup> He therefore declared his intention of doing what he could to please Pompey and his associates. They, for their part, had not forgotten the hostility shown them by both senators and Equites. Pompey told Cicero that he and Crassus were going to 'settle accounts with the publicans', a cryptic remark which Cicero told Atticus he could not understand.<sup>2</sup> But its meaning soon became clear when Pompey proposed to the Senate to rectify the omission in Caesar's extortion law<sup>3</sup> by making non-senators liable to prosecution for that offence. There were, as Cicero admits, good grounds for this proposal in the offences committed in the provinces by so many non-senators, but its acceptance would have greatly widened the breach between senators and Middle Class. Cicero was delighted, therefore, when Pompey's suggestion was not accepted by the Senate.<sup>4</sup>

Bribery in the law-courts was another evil which Pompey and Crassus attempted to check. The former sponsored a judiciary law whose main provision was that the jurors, while still being selected from the same three groups as in the Aurelian law, should be chosen from those with the highest census ratings. There were to be no exemptions. The praetor's freedom of choice was thereby severely limited and the possibility of corruption lessened.<sup>5</sup> It is a plausible conjecture that Pompey's law also provided for the selection of Equites and *tribuni aerarii* for the juries by tribes. Probably ten or twelve of each class were to be chosen from each tribe. On the basis of Pompey's law, Crassus passed a further law against bribery through the associations of voters known as *sodalicia*. Under it trials were to be before jurors selected from only three tribes (*editicii iudices*).<sup>6</sup>

By consenting to remain in Rome as consul and subsequently in Italy as the watchdog of the Triumvirate, Pompey had resigned, for the moment, further military ambitions. He therefore allowed a solution to be found for a problem which had vexed Roman politics for three years—that of the restoration of the King of Egypt. After being recognized, at a price, by Rome in 59 B.C., Ptolemy Auletes had been driven out of Egypt by the Alexandrians in 58 B.C. Lavish bribery convinced the Senate that it was Rome's duty to restore this

<sup>1</sup> *Ad Fam.* I, 8.

<sup>2</sup> *Ad Att.* IV, 11, 1. *C.A.H.* (IX, 615) finds no difficulty.

<sup>3</sup> Above, p. 173.

<sup>4</sup> Cicero, *Rab. Post.* 13.

<sup>5</sup> Cicero, *Pis.* 94; Ascon. p. 17. Cf. Cicero, *Phil.* I, 20; Sallust, *Ad Caes.* II, 3, 3; 7, 11. For a different view see Mommsen, *Staatsr.* III, 192, n. 4.

<sup>6</sup> Cicero, *Planc.* 36 f.; 41 f.; *Ad Fam.* VIII, 2, 1; Scol. Bob. pp. 253; 261 (Or.); Dio Cass. XXXIX, 37. Cf. Zumpt, *C. recht.* II, 2, 353 f.; Holden in *Introd. to Pro Planc.* p. xlii f. For a different view see Belot, II, 318 f.

contemptible monarch to his throne, but for two more years they squabbled as to who should have the honour. The senatorial conservatives backed the claim of P. Lentulus Spinther, governor of Cilicia, and Cicero supported them out of gratitude to Lentulus, who had been consul in the year of his restoration from exile. But the Middle Class, many of whom had lent large sums of money to Ptolemy, opposed the appointment of Lentulus, preferring either Pompey or Crassus.<sup>1</sup> Of these neither would openly claim the job, though it was well known that Pompey, in particular, would have liked it. But when, in January of 56 B.C., a popular tribune persuaded the people to accept a Sibylline oracle which forbade the restoration of Ptolemy by force, the assignment became less attractive. No action was therefore taken until early in 55 B.C., when Pompey wrote to A. Gabinius, then governor of Syria, instructing him to ignore the oracle and restore Ptolemy by military action. This Gabinius successfully did.<sup>2</sup> The Middle Class, much as they disliked and distrusted Gabinius,<sup>3</sup> were glad to have the matter settled, and the publicans of Syria provided Gabinius with a cavalry escort when he set out for Egypt.<sup>4</sup> With Gabinius' connivance, one of Ptolemy's principal equestrian creditors, C. Rabirius Postumus, accompanied the king and became his financial adviser, though without much profit to himself or to his fellow creditors. Rabirius was later prosecuted as an accessory to Gabinius in extortion, and Cicero's speech in his defence throws a lurid light on the whole fantastic affair.<sup>5</sup>

But neither Cicero nor the *publicani* allowed this brief interlude of goodwill to lessen their fundamental hatred of Gabinius. As consuls in 58 B.C., he and Piso had acquiesced in the exile of Cicero and the equestrian leader, L. Aelius Lamia. They had further uttered threats against the whole Middle Class.<sup>6</sup> Clodius had rewarded them by securing for Piso the province of Macedonia and for Gabinius that of Syria. Though Gabinius subsequently quarrelled with Clodius on behalf of his patron Pompey, both he and Piso pursued, in their provinces, a policy of hostility to the equestrian business men. Gabinius was especially hard upon the *publicani* and his departure for

<sup>1</sup> Cicero, *Ad Quint.* II, 2, 3.

<sup>2</sup> See especially Tyrrell and Purser, *Corresp. of Cicero*, II, Intro. p. xxix f.

<sup>3</sup> Above, p. 158.

<sup>4</sup> Cicero, *Ad Quint.* II, 11, 2. On this passage I prefer the interpretation of Tyrrell and Purser (*ad loc.*) to that more generally accepted, which assigns the incident of the cavalry escort to Gabinius' departure from Rome to Syria. Cicero tells us (*Sest.* 71; *Pis.* 31) that nothing but curses and evil omens accompanied him on that occasion.

<sup>5</sup> *Rab. Post. passim.* Cf. P. Guiraud, *Hist. d'un financier rom.*; above, p. 81; below, p. 181 f.

<sup>6</sup> Above, p. 175.

Egypt only increased their difficulties.<sup>1</sup> Therefore, though Cicero had to give way to the Triumvirs again and was even formally reconciled to Crassus, whom he hated, he could not resist becoming the mouthpiece of the Middle Class against Piso and Gabinius. Even in the speech *De Provinciis Consularibus*, which some scholars regard as his formal act of submission to the Triumvirs, he seized the opportunity to make a fierce onslaught on these two men, threatening vengeance for their attitude in 58 B.C. In the next year, when Piso was recalled from Macedonia, largely as a result of that speech, Cicero assailed him again in the Senate in one of the most scurrilous of his speeches.<sup>2</sup>

Gabinius' action in Egypt and complaints from the publicans of Syria about the results of his neglect of his province led to a demand in Rome for his recall. But Pompey and Crassus, the consuls, prevented this.<sup>3</sup> The Middle Class, however, were determined to make an example of Gabinius. In February of 54 B.C. he was the subject of a violent quarrel in the Senate between the consul Domitius and the Syrian *publicani* led by the now returned Lamia.<sup>4</sup> Finally, in the autumn of that year, Gabinius came back to Rome, expecting to be prosecuted but relying on bribery and the favour of Pompey to save him from conviction. His enemies had prepared no less than three different charges against him—treason, extortion and bribery. Within ten days of his arrival he was involved in an angry dispute in the Senate with Cicero and the *publicani*, and there was much competition for the task of prosecuting him.<sup>5</sup>

The first trial of Gabinius was for treason in leaving his province to restore Ptolemy. Cicero, who was pressed to appear both for the prosecution and for the defence, contented himself with giving evidence against him. By lavish bribery and the exercise of all the influence of both Pompey and Caesar, an acquittal was secured, though by only six votes. The verdict caused great indignation, and it was obvious that Gabinius would have still greater difficulty in escaping condemnation on the second charge of extortion. Pompey worked hard on his behalf and put such pressure on Cicero that the orator agreed, though with the utmost reluctance, to undertake the defence. Nevertheless, the verdict was unfavourable and Gabinius

<sup>1</sup> Cicero, *Prov. Cons.* 7; 10 f.; *Pis.* 41; 45; 48 f.; 64; 86; 96; 98; *Dom.* 60; *Sest.* 94; Dio Cass. XXXIX, 59.

<sup>2</sup> *Prov. Cons. passim*; *In Pis. passim*. Cf. *Ad Quint.* III, 1, 11.

<sup>3</sup> Cicero, *Ad Fam.* I, 9, 20; *Pis.* 88; Dio Cass. XXXIX, 60.

<sup>4</sup> Cicero, *Ad Quint.* II, 11, 2; above, p. 175.

<sup>5</sup> Cicero, *Ad Quint.* III, 1, 15; 1, 24; 2, 1-2; 3, 2 f.

went into exile. His failure to save Gabinius did Cicero much harm, some blaming him for undertaking the case at all, while others accused him of having deliberately bungled it.<sup>1</sup>

Much more serious for Cicero's efforts to save the republican cause was the fact that he had had, in defending Gabinius, to oppose the wishes of the Middle Class—until now his chief supporters. Thus, to his consciousness of his political subservience to Pompey and Caesar was added the realization that he could no longer use even the law-courts to further his policy.<sup>2</sup> He was not free even to choose his own clients. In addition to Gabinius, in this year he spoke in defence of Vatinius, C. Messius, M. Livius Drusus Claudianus and M. Aemilius Scaurus, all protégés of the Triumvirs.<sup>3</sup> It happens that the only two speeches of 54 B.C. which have survived, those for Cn. Plancius and C. Rabirius Postumus, are probably his most sincere, since both defendants had given Cicero their help and sympathy at the time of his exile. Both speeches, too, have an important bearing on Cicero's relations with the Middle Class at this time, for Rabirius was an Eques and Plancius, though a senator, belonged to a prominent equestrian family of Atina near Cicero's own birthplace. Cicero seems to have been conscious that he was in danger of losing his grip on middle class feeling, so that he reverted to the kind of arguments that he had used before the brief period of successful *concordia*. There is, in both speeches, the same insistence we have noted before<sup>4</sup> on the difference between the functions, and even the moral obligations, of the senatorial and equestrian orders. Rabirius, as a business man, is not regarded as having done anything wrong in lending money to Ptolemy for the purpose of bribery. His legitimate object was to make profit and his only error was, according to Cicero, in miscalculating the financial risk he took.<sup>5</sup> As for Plancius, he was a senator and his career was as honourable as that of any noble. It was unfair of his opponents to use against him the fact that his father was a prominent publican and had exercised his right, during the dispute about the Asiatic contract, to criticize and even to abuse senatorial officials.<sup>6</sup> On the other hand, there is commendation for the senatorial official who preserves good relations with the business men of his province.<sup>7</sup> Nor must there be

<sup>1</sup> P.-W. *s.v.* *Gabinius*, No. 11; Drumann-Groebe, *Gesch. Roms*, III, 49 f.; E. M. Sanford in *T.A.Ph.A.* LXX (1939), 64 f.

<sup>2</sup> Cicero, *Ad Quint.* III, 4, 1; 5, 4; *Ad Att.* IV, 15, 4; *Ad Fam.* I, 9, 17; *Planc.* 91 f. etc. Cf. above, p. 174.

<sup>3</sup> For the last three see P.-W. *s.vv.* and for Vatinius Tyrrell and Purser, *Corresp. of Cic.* V, p. xciv f. and Ciaceri, *Cic.* II, 121.

<sup>4</sup> Above, p. 163.

<sup>5</sup> *Rab. Post.* 38 f.

<sup>6</sup> *Planc.* 33; 55. Cf. above, p. 171.

<sup>7</sup> *Planc.* 63 f. Cf. *Ad Fam.* I, 9, 26.

any bar to a senatorial career for the son of a tax-farmer. Cicero strongly censures senatorial exclusiveness and insists again that public office must be open to such of the Middle Class as are worthy of it and seek it.<sup>1</sup> He stresses, too, the close connection of the equestrian order with the local nobility of Italy.<sup>2</sup> Rabirius was prosecuted as an accessory in the extortion of which Gabinius had been found guilty, the prosecution alleging that he had received some of Gabinius' gains. The central theme of Cicero's speech recalls a similar passage in the speech for Cluentius.<sup>3</sup> For Cicero, arguing that Rabirius cannot be cited as an accessory because he has not been specifically mentioned in the trial of Gabinius, warns the equestrian jurors that, if they condemn his client, they may find themselves liable to trial for extortion on the same terms as senators.<sup>4</sup> It is unfortunate that we do not know the verdict in this case, so that we cannot tell whether the equestrian jurors are likely to have been influenced by Cicero's warning.<sup>5</sup>

But the rivalry between Senate and Middle Class, and indeed every other political rivalry, was now of little account. All that mattered in Roman politics for the next few years was the struggle between Caesar and Pompey for power. Romans could now only choose between these two men, and even the extremists like Cato had to make that choice. Cicero, it is true, still hoped for a compromise and peace, maintaining friendly relations with both Caesar and Pompey, but the support he got was negligible. In so far as the Middle Class had any policy at all, it is probably best represented by Cicero's friend Atticus, who was in so many ways typical of his class. Having deliberately abstained from seeking public office, he believed, as Nepos tells us, in 'not launching himself on the waves of politics'—a course which he constantly advised Cicero to adopt. Despite his intimacy with Cicero, he had not broken with Clodius. Now we find him on terms of friendship with both Pompey and Caesar and not allowing his admiration for Brutus to interfere with his friendly relations with Caesar's agents, Oppius and Balbus.<sup>6</sup>

To men of property, whether senators or Equites, the violence and chaos of the years 53 and 52 B.C. caused acute anxiety. The murder of Clodius, early in 52 B.C., and the riots that followed it were the last straw, so that even Cato agreed that troops must be used to

<sup>1</sup> *Planc.* 17 f.; 59 f.; 67. See above, p. 163.

<sup>2</sup> *Planc.* 19 f. Cf. above, p. 153 f.

<sup>3</sup> Above, p. 161.

<sup>4</sup> *Rab. Post.* 8 f. Cf. *Quintil.* III, 6, 11; above, p. 178.

<sup>5</sup> See P.-W. s.v. *Rabirius*, No. 6; *C.A.H.* IX, 622; E. Ciaceri, *Processi Politici e Relazione Internaz.* (Rome, 1918) V, 197 f.; above, p. 179.

<sup>6</sup> Nepos, *Att.* 6. On Atticus' attitude to politics see especially Drumann-Groebe, *Gesch. Roms*, V, 83 f.; Ciaceri, *Cic.* I, 105 f.; A. H. Byrne, *Atticus*, 52 f.; Ziegler, *Atticus*.

restore order. Since Pompey's were the only troops near Rome, it was inevitable that he should be given dictatorial powers, though the Senate disguised them by appointing him not dictator but sole consul. Once installed, Pompey acted with energy and decision. Despite the opposition of Milo's friends, he carried two laws setting up special judicial machinery to try cases of violence and corruption and severely limiting the time which each trial could occupy. Retaining the provision of his earlier judiciary law whereby jurors were to be chosen from among only the richest of the three groups eligible,<sup>1</sup> he further enacted that the presiding judges should be appointed from among men of consular rank and that he himself should select the jurors. Even those who most resented this extraordinary procedure had to admit that the 360 men he chose were the most solid and respectable of citizens.<sup>2</sup>

This prompt action was no doubt welcomed by the Middle Class as well as by the Senate. In moments of revolutionary crisis the rich must stick together. So at last Pompey's soldiers were behind a coalition of both equestrian and senatorial property-owners. But this time Cicero was not with them. Milo, the murderer of Clodius, had helped to restore him from exile and gratitude, in which Cicero was never deficient, demanded that he should be defended. Already Cicero had offended Pompey by his support of Milo for the consulship of 52 B.C. Now, with the city full of Pompey's troops, he saw that the hope of peaceful political decisions was gone. It was thus by an act of real courage that he came forward to defend Milo in a court surrounded by armed men and dominated by the presence of Pompey himself. But when the moment came, he could not deliver the speech he had planned. The speech we have was written and published later. In it he makes a pathetic bid for the sympathy of a predominantly equestrian jury, recalling the services Milo had rendered to him and reminding his readers that the equestrian order was still 'Cicero's own'. But the men of property had deserted him. Of the fifty-one jurors only thirteen, six of them senators, voted for Milo's acquittal.<sup>3</sup>

As if to show that their object was not political, the jurors in trials for violence acted with greater severity against the supporters of

<sup>1</sup> Above, p. 178.

<sup>2</sup> Ascon. pp. 31; 33; 34; 38; 48; Cicero, *Mil.* 4; 5; 21; 105; Dio Cass. XL, 52; Appian, *Civ.* II, 24; Vell. Pat. II, 76, etc. For details of the procedure in selecting the final jury for each case see Greenidge, *Legal Proc.* 391 f.; Strachan-Davidson, *Problems*, II, 110 f.; Drumann-Groebe, *Gesch. Roms*, II, 292 f.; Ciaceri, *Cic.* II, 146 f. It is uncertain whether this method of selecting a president and jurors applied to cases of *ambitus* as well as those of violence. Some scholars hold that it applied only to the latter. Cf. Lange, *R. Alt.* III, 369 f.

<sup>3</sup> Cicero, *Mil.* 94; Ascon. p. 53.



Clodius than against those of Milo. M. Saufeius, Milo's chief assistant in the murder, was twice acquitted, whereas Sex. Clodius, Q. Pompeius Rufus and T. Munatius Plancus, ringleaders of the disturbances following Clodius' death, were all found guilty, the last-named despite Pompey's personal intervention on his behalf.<sup>1</sup> Trials for corruption were carried out with equal severity. Among those convicted were M. Aemilius Scaurus and P. Plautius Hypsaesus, both former protégés of Pompey, and C. Memmius, whose candidature had been strongly supported by Caesar. All three were abandoned by their patrons. But Pompey's concern for public morality did not prevent him from intervening, in defiance of the terms of his own law, to save from prosecution his father-in-law, Metellus Scipio, whom he subsequently nominated as his colleague in the consulship.<sup>2</sup>

On top of the dangerous situation of home politics came a threat of war in the East. Crassus had been defeated and killed by the Parthians, who were now expected to invade the eastern provinces. As usual, the inhabitants of those provinces, burdened by the exactions of tax-farmers and moneylenders and the inefficiency or downright corruption of most senatorial officials, could not be trusted to co-operate in resisting invasion. It looked as though Pompey himself would have to take charge there, as in 66 B.C. But the Senate did make a belated attempt to gain the confidence of the eastern peoples. A decree was passed fixing the rate of interest in all provinces at 12 per cent.<sup>3</sup> Moreover, Pompey's well-known law dealing with consular provinces, fixing an interval of at least five years between consulship and provincial governorship, gave the Senate a wider discretion in its appointment of governors. Those selected for the eastern provinces were all men of good character who did much to restore confidence in Rome. Bibulus, Caesar's colleague in 59 B.C., went to the most threatened province, Syria, and Cicero, much to his disgust, was appointed to Cilicia. Both showed a genuine interest in the welfare of their subjects and the Parthians gave little trouble. P. Silius, in Bithynia, and Q. Minucius Thermus, in Asia, were also well thought of. Furthermore, Pompey himself consented not to press King Ariobarzanes of Cappadocia too hard for the repayment of loans he had made him. Though Brutus and his agents were not so generous to the Cypriots, Cicero managed to relieve the pressure at least temporarily.<sup>4</sup>

<sup>1</sup> Ascon. p. 55; Cicero, *Ad Fam.* VII, 2, 2 f.; Dio Cass. XL, 55; Plut. *Pomp.* 55, etc.

<sup>2</sup> Appian, *Civ.* II, 24; Dio Cass. XL, 53 f.; Val. Max. IX, 5, 3; Plut. *Pomp.* 55.

<sup>3</sup> Cicero, *Ad Att.* V, 21, 13.

<sup>4</sup> Cicero, *Ad Att.* VI, 1. See above, p. 82 f.

Naturally, this unexpected concern for the interests, especially the financial interests, of the eastern peoples did not please the equestrian financiers. There was strong criticism of Bibulus, in particular, and Cicero found it very difficult to be fair to his subjects without offending his equestrian friends.<sup>1</sup> We may regard his dilemma as typical of the difficulties which faced the Senate at this time in dealing with the Middle Class. Cicero, in fact, now despaired of any effective collaboration between the two classes. He declared that the *publicani* had already swung over to Caesar's side, while other business men were anxious only for peace.<sup>2</sup>

Meanwhile, Pompey and Caesar were building up their strength for civil war. Pompey refurbished an old weapon which had served the Senate well in the past. His father-in-law and colleague in 52 B.C. had removed restrictions placed on the powers of the censors by Clodius.<sup>3</sup> In 50 B.C. censors were appointed: Appius Claudius, brother of Clodius but a staunch Pompeian, and L. Piso, Caesar's father-in-law. Claudius was the more active of the two and, though the census was not formally completed owing to the outbreak of the civil war, he succeeded in purging the Senate and the equestrian centuries of many men hostile to the Pompeian cause.<sup>4</sup> Caesar replied by bribery of both senators and Equites on a colossal scale.<sup>5</sup> The opposing factions were lining up. The cynical M. Caelius Rufus assured Cicero in August of 50 B.C. that the war was coming and that Pompey would have the support of the Senate and 'the jurors' (i.e. the better-off Equites), but Caesar had the stronger army.<sup>6</sup> But in fact those who committed themselves openly to either side were comparatively few. Even the Senate was not whole-heartedly Pompeian, as is shown by the vote of 370 to 22 in favour of the proposal that both Pompey and Caesar should resign their commands.<sup>7</sup> As for the Middle Class, they were, as usual, mostly for peace at almost any price.<sup>8</sup>

<sup>1</sup> Cicero, *Ad Att.* V, 13, 1; VI, 1, 15; 2, 5 f.; 3, 3 f.; *Ad Fam.* II, 13, 3. Above, p. 73 f.

<sup>2</sup> *Ad Att.* VII, 7, 5.

<sup>3</sup> Dio Cass. XL, 57.

<sup>4</sup> Caelius *ap.* Cic. *Ad Fam.* VIII, 14, 4; Dio Cass. XL, 63 f.

<sup>5</sup> Dio Cass. XL, 60, 4.

<sup>6</sup> Caelius *ap.* Cic. *Ad Fam.* VIII, 14, 3.

<sup>7</sup> Appian, *Civ.* II, 30.

<sup>8</sup> Cicero, *Ad Att.* VII, 5, 4; 6, 2; 7, 5. Cf. Q. Cicero, *Pet. Cons.* 53. In this respect, Cicero was typical of the class of his origin. For his attitude see especially Ciaceri, *Cic.* II, 230 f. No reliable conclusions can be drawn about equestrian support for either belligerent from the few known cases of individuals on this side or that. Naturally both had equestrian officers in their armies and personal friends and assistants of equestrian rank. R. Syme (*Pap. Brit. Sch. Rome*, XIV (1938), 16 f. and *Roman Rev.* 70 f.) has studied those on Caesar's side. For Pompey's side see, e.g., Q. Caecilius Bassus (P.-W. s.v. *Caecilius*, No. 36), T. Quinctius Scapula and Q. Aponius (Dio Cass. XLIII, 29 f.; *Bel. Hisp.* 33, etc.), C. Subernius and M. Planius Heres (Cicero, *Ad Fam.* IX, 13, 1 f.). Atticus (for whom see especially A. H. Byrne, *Atticus*, 75 f.; Ziegler, *Atticus*, 65 f.) probably represents the views of the Middle Class as a whole better than any of these.

The approach of civil war inevitably revived memories of the Sullan civil war, and none, least of all the Middle Class, could gain any comfort from that retrospect. Whatever the outcome, both sides were bound to need money, and where could that come from except from the pockets of rich men?<sup>1</sup> When war did come, with Caesar's invasion of Italy in January of 49 B.C., there was a tendency to regard it as a private affair between the two principals. It was not, in the words of the magistrates of Auximum, 'a matter on which they could pass judgment'.<sup>2</sup> For men of property the choice of which side, if any, to support was peculiarly difficult. It is true that Caesar was generally regarded as the champion of the poor and the unprivileged, a more powerful and therefore more dangerous Catiline, and that his army contained a good proportion of the dreaded Gauls.<sup>3</sup> But what if he should win? Besides, there was always the hope that Pompey would crush him before he reached Rome, so that none but soldiers or out-and-out partisans need declare themselves. Better, therefore, to wait and see.

But disillusionment came quickly. Pompey and his supporters abandoned Rome and moved south to Campania and later across to Brundisium. Caesar would soon be in Rome and his return might bring murders, confiscation and looting. But his advance was so swift that even those who might regret their hesitancy and wish to follow Pompey had no time to make the necessary preparations. Thus, only those Equites who had irretrievably identified themselves with Pompey accompanied him and eventually paid the penalty at Pharsalus or later.<sup>4</sup> The rest stayed where they were, like Cicero in Campania, or even drifted back to Rome if they had left it, though with no enthusiasm for Caesar's cause. Atticus was among them, and from Cicero's replies to his letters we gain an inkling of the changes of mood and the wild rumours in the circle of senators and business men in which he moved.<sup>5</sup>

Then, on February 21st, came the surrender of Corfinium and the news of Caesar's almost incredible act of clemency to its garrison, including those of senatorial or equestrian rank. None had doubted that Caesar would prove a tyrant, but now there was hope that he

<sup>1</sup> Cicero, *Ad Att.* X, 14, 1.

<sup>2</sup> Caesar, *Bel. Civ.* I, 13, 1.

<sup>3</sup> Cicero, *Ad Att.* VII, 3, 5; 7, 6; 11, 1; 12, 2; 13a, 1; 20, 2; 22; VIII, 2,3; 3,2; *Ad Fam.* XVI, 12, 1; *Phil.* II, 94; Dio Cass. XLI, 8. Cf. Sallust, *Ad Caes.* I, 2; 4, etc.

<sup>4</sup> Dio Cass. XLI, 7; 18; 55; 62; Appian, *Civ.* II, 50; 67; 72; 82; Nepos, *Att.* 7; Plut. *Pomp.* 64; Lucan, VII, 581; Orosius, VI, 15, 23.

<sup>5</sup> Cicero, *Ad Att.* VIII, 1, 3; 2, 3; 11, 7; IX, 1, 2; 10.

might imitate not Phalaris but Pisistratus.<sup>1</sup> At least he seemed ready to spare life, though he had not yet declared his intentions about property. Atticus and his associates advised waiting, and all Italy felt profound relief.<sup>2</sup>

Moreover, there was shocking news from Pompey's headquarters at Luceria. Pompey was threatening to regard all who did not join him as Caesarians, and his followers spoke of proscriptions and confiscations. So Pompey also intended to be a tyrant, but his model was to be Sulla—an ominous name to the Middle Class.<sup>3</sup> And Caesar was clearly winning the war, in Italy at least. He soon had Pompey bottled up in Brundisium and forced him to do what he had probably intended to do from the first—cross to Greece and, again like Sulla, use the East as a base against the West. When he reached Greece, reports from his camp were uniformly depressing to men of business. Besides continued threats of Sullan proscriptions and confiscations, there was now a plan to blockade Italy, with all that meant in dislocation of trade and loss of revenues, both public and private.<sup>4</sup> Nor would his eastern levies be likely to behave better, when the expected counter-attack on Italy came, than Caesar's Gauls.<sup>5</sup> The best policy was still, therefore, not to commit oneself openly to either side.<sup>6</sup>

Even before Pompey's army had left Brundisium, Cicero could write bitterly that Rome was returning to normal. 'The praetors are dispensing justice, the aediles preparing for the games, and good republicans (i.e. the members of his now demolished coalition) are entering up the interest on their loans'.<sup>7</sup> No doubt his disillusionment with those who had once rallied round him against Catiline made Cicero exaggerate this attitude of 'business as usual', for Caesar's economic policy was still unknown. Nor was it certain that, even if he behaved correctly, he could control his followers.<sup>8</sup> The uncertainty must be endured, however, because Caesar had no time for anything but military affairs. Having seen Pompey off from Brundisium and being unable, through lack of ships, to pursue him, he made a hurried visit to Rome, collected the contents of the treasury, and hastened off to Spain to destroy the strong Pompeian forces there

<sup>1</sup> Cicero, *Ad Att.* VII, 20, 2; VIII, 16, 2.

<sup>2</sup> Cicero, *Ad Att.* VII, 23, 2; 26, 2; VIII, 13; 16; IX, 2a; 7C; 10, 8 f.; 12; 13, 4; 15, 3; Plut. *Caes.* 34.

<sup>3</sup> Cicero, *Ad Att.* VIII, 11; 16; IX, 7; 9; 10; 11; X, 4; 7. Cf. XI, 6; *Ad Fam.* IV, 14, 2; VII, 3, 2.

<sup>4</sup> Cicero, *Ad Att.* IX, 7, 4; 9; X, 4.

<sup>5</sup> Cicero, *Ad Att.* XI, 6, 2; 7, 3; *Ad Fam.* IX, 9, 2; Dio Cass. XLI, 13, 3.

<sup>6</sup> Cicero, *Ad Att.* IX, 13; 15; X, 7.

<sup>7</sup> *Ad Att.* IX, 12.

<sup>8</sup> Cicero, *Ad Att.* VIII, 2; IX, 13, 4.

under Afranius and Petreius. It is possible that he did find time, while in Rome, to order the carrying through of one much belated act of justice—the restoration of full civic rights to the sons of men proscribed by Sulla. Many of these were of equestrian birth and they, restored to equestrian rank, would naturally become loyal Caesarians.<sup>1</sup> Other problems had to await his return from Spain at the end of the year 49 B.C. On his way back, he learnt at Massilia that he had been appointed dictator. Reaching Rome in November, he held that office for only eleven days before setting out to deal with Pompey's army in Greece. In that short period he held elections, recalled a number of men exiled by Pompey, and put through some temporary measures to ease the financial situation.

Caesar was well aware that he was suspected of an intention to cancel all debts.<sup>2</sup> There were undoubtedly many among his followers who expected him to take some such drastic action, and there is even some evidence of a belief among them that money was at the root of all contemporary evils and that Caesar's policy should be directed to destroying its power.<sup>3</sup> But whatever Caesar's own views may have been on this point, he could not afford, while Pompey was still undefeated, to antagonize those rich men who had not joined Pompey. Their minds must be set at rest. But the problem of debt must be tackled. The value of property had fallen heavily because of the war, and creditors were demanding payment in cash, which was not readily available. Caesar therefore decided on a compromise. He decreed that assessors were to be appointed and property was to be assessed at its pre-war value. Creditors were then to be compelled to accept it at that valuation in payment of debts. 'This', he himself tells us, 'he thought the best way both to remove the fear of debt cancellation and to protect the credit of debtors'.<sup>4</sup> He does not, however, tell us, what we learn from other sources, that he made a further concession to debtors by deducting from the principal of all debts the amount of the interest paid since the beginning of the war.<sup>5</sup> In addition, Dio Cassius informs us that Caesar forbade the holding of

<sup>1</sup> Dio Cass. XLI, 18, 2; XLIV, 47, 4; Plut. *Caes.* 37, 1; Sueton. *Div. Iul.* 41, 2. Rotondi (*Leg. Pub.* 416) postulates a *Lex Antonia* for this purpose. Cf. above, p. 167 f.

<sup>2</sup> Caesar, *Bel. Civ.* III, 1, 3. Cf. Cicero, *Ad Att.* X, 8, 2; above, p. 186.

<sup>3</sup> Sallust, *Ad Caes.* On the genuineness of these letters see E. Meyer, *Caesars Mon.* 357 f.; Syme, *R. Rev.* 52.

<sup>4</sup> Caesar, *Bel. Civ.* III, 1; 20. Cf. Dio Cass. XLI, 37; XLII, 51; Appian, *Civ.* II, 48; Sueton. *Div. Iul.* 42, 2.

<sup>5</sup> Dio Cass. XLII, 51; Plut. *Caesar*, 37, 1; Sueton. *Div. Iul.* 42, 2. Suetonius tells us that this meant a loss of one quarter of the principal to creditors, which, if true, reflects the high rates of interest which had been demanded.

more than 60,000 HS. in silver or gold—a measure designed, no doubt, to keep cash in circulation.<sup>1</sup>

As was to be expected, these moderate measures did not please the extremists on either side. Cicero, taking the extreme view of the sacredness of property, calls them expropriation and classes Caesar with Catiline as an enemy of legitimate business.<sup>2</sup> Caelius, taking the precisely opposite point of view, wrote a furious letter to Cicero in which he foretells Caesar's downfall because 'except for a few money-lenders, there is no class or individual here in Rome who is not Pompeian'.<sup>3</sup> The two, of course, neatly cancel each other out, and it appears, in fact, that Caesar's arrangements worked reasonably well. Probably creditors, as well as debtors, welcomed the end of the financial deadlock. The assessors began their work and the urban praetor, C. Trebonius, sat to decide disputes. Caelius, also a praetor, offered to assist anyone dissatisfied with Trebonius' decisions. But he got small response and, in desperation, embarked on a policy of revolutionary reforms. First he promulgated a law postponing the payment of all debts for six years without any interest accruing. Meeting with opposition from the consul, Servilius, and other magistrates, he went further and proposed two laws, one cancelling all rents for a year and the second an outright repudiation of all debts.<sup>4</sup> Nothing could be better calculated to make the Middle Class acquiesce in Caesar's compromise. Caelius was removed from his office and fled from Rome. He subsequently joined Milo, who had left his place of exile in Massilia to raise rebellion among debtors and outcasts. Both perished miserably.<sup>5</sup>

Meanwhile, Caesar had crossed to Greece and begun the campaign which was to end in Pompey's defeat at Pharsalus. The arrival of Pompey's army in the East had naturally faced Romans and Italians, mostly business men or their agents, living there with the problem of which party they should regard as the legitimate government of the Empire. Caesar tells us of one city, Salonae on the coast of Illyricum,

<sup>1</sup> Dio Cass. XLI, 38. It is difficult to see how this measure can have been, as some scholars assume, part of the permanent *Lex de modo credendi et possidendi* mentioned by Tacitus (*Ann.* VI, 16). So Furneaux on Tacitus, *loc. cit.* and Tyrrell and Purser on Cicero, *Ad Fam.* XI, 28, 2. Cf. below, p. 192.

<sup>2</sup> *De Off.* II, 84.

<sup>3</sup> *Ap. Cic. Ad Fam.* VIII, 17.

<sup>4</sup> Caesar, *Bel. Civ.* III, 20 f.; Dio Cass. XLII, 22. Cf. Livy, *Epit.* 111; Vell. Pat. II, 68, 2.

<sup>5</sup> See P.-W. s.v. *Caelius*, No. 35; *Annius*, No. 67. The action of Milo is difficult to explain. He had not been recalled from exile by Caesar, presumably because he had not committed himself to Caesar's support (Caesar, *Bel. Civ.* III, 1, 4). But, despite Dio Cassius (XLI, 36, 2) and Appian (*Civ.* II, 48), he was certainly not the only one not recalled. Dio Cassius himself (XLIII, 27, 2) speaks of subsequent recalls of exiles. In any case, mere failure to obtain reinstatement was hardly an adequate reason for armed revolt.

where the Italian residents stood out for him and beat off a Pompeian force. But the fact that he gives so much prominence to so comparatively unimportant an episode suggests that Saloniae was exceptional in this respect.<sup>1</sup> In general, no doubt, business communities in the East imitated their fellows in Italy and accepted the situation as it presented itself to them. The Pompeians needed money and they proceeded to get it by widespread exactions from natives and Italians alike. Payments on the tax-farming contracts let, presumably, by the censors of 50 B.C., were due for two years, and these were collected, together with an advance payment of the amount due for the next year. There were also, if we may believe Caesar, further demands, both for men and for money, from the publicans and other business men.<sup>2</sup>

After his victory at Pharsalus, Caesar was too intent on his pursuit of Pompey to do more than pay a passing visit to Ephesus, the administrative centre of Asia Minor, before pressing on to Egypt. In Egypt, he became involved in the Alexandrine War, which kept him occupied until the middle of 47 B.C. Here, incidentally, he reduced the revenues of Rome and the profits of the tax-farmers by surrendering Cyprus to the Egyptian royal family.<sup>3</sup> His failure to make proper provision for the government of the eastern provinces during this period had disastrous consequences for the provincials. Roman business men seized the opportunity to recoup themselves for the sums extorted from them by the Pompeians by squeezing money out of the natives. It was no doubt some consolation to the latter that Pharnaces, King of Bosphorus, also took advantage of the chaos in Asia Minor to invade Pontus. After defeating a Roman army, he plundered and cruelly maltreated Roman business men there. As soon as Caesar was free, he returned to Asia Minor and crushed Pharnaces at the Battle of Zela. His somewhat callous remark that 'life could not be restored to the dead nor virility to the mutilated', coupled with the fact that he demanded simple restitution of the property taken from the plundered business men, suggests that he felt no great sympathy for them.<sup>4</sup> On his return to Asia he found there a situation not unlike that which Lucullus had found some twenty years before.<sup>5</sup> The exactions of publicans and moneylenders had reduced the province to poverty and despair. Caesar cut down the tribute by one-third and, either then or later, did away altogether

<sup>1</sup> Caesar, *Bel. Civ.* III, 9.

<sup>2</sup> Caesar, *Bel. Civ.* III, 3; 31 f.; 103; 105.

<sup>4</sup> *Bel. Alex.* 41; 70.

<sup>3</sup> Dio Cass. XLII, 35, 5; above, p. 72.

<sup>5</sup> Above, p. 157.

with the system of tithes, substituting a fixed tribute to be collected locally. This was probably his worst blow at the Middle Class, since it robbed the publicans of their main source of profit.<sup>1</sup>

Italy, too, was in need of Caesar's personal attention. It seems at first to have been the general view that Pharsalus would prove to have been decisive and that all that could be done was to await Caesar's return and hope that he would continue his moderate policy.<sup>2</sup> Many supporters of Pompey, like Cicero, had abandoned his cause and were hoping for the clemency which Caesar had already shown to their fellows. But others, led by Scipio, Cato and Pompey's two sons, had different ideas, and a new Pompeian army was built up in North Africa. News of this, combined with reports of Caesar's difficulties in Egypt and Pharnaces' successes in Asia, had a disturbing effect in Italy.<sup>3</sup> Moreover, Caesar's deputy, M. Antonius, was behaving badly, and the troops he had in Italy were war-weary and on the verge of mutiny. There was an atmosphere of suspense and suspicion which only Caesar himself could dispel. Though, as we have seen, his temporary financial measures seem to have worked reasonably well, there was still an extreme section of Caesarians who favoured more sweeping reforms, on the lines suggested by Caelius. To Cicero's horror, his son-in-law, P. Cornelius Dolabella, who was tribune in 47 B.C., put himself at the head of this faction and proposed laws cancelling debt and making a remission of rent. If we are to believe Plutarch and Cicero, Antony himself at first supported Dolabella, but later he went over to his opponent, L. Trebellius, who claimed to be the champion of the 'better classes'. Antony finally brought troops into Rome, with the consent of the Senate, and order was restored after some bloody street fighting. But the dangerous situation continued until, in September (47 B.C.), Caesar returned and, in his usual decisive fashion, tackled the problems which had caused it.<sup>4</sup>

Having rapidly restored discipline in the army and order in the city, he was free to turn his attention to economic and financial matters. This time he was in a much stronger position than in 49 B.C., and his two months' stay in Rome enabled him to make more permanent arrangements. He needed money, especially for the

<sup>1</sup> Dio Cass. XLII, 6, 3 (wrongly dated); Appian, *Civ.* II, 92; V, 4; Plut. *Caes.* 48. Cf. above, p. 71. Modern scholars are at variance about the dating and precise nature of these reforms. For Caesar's curtailment of tax-farming in Syria see above, p. 76.

<sup>2</sup> Cicero, *Ad Fam.* IV, 7; VII, 3, 5; XV, 15.

<sup>3</sup> For the effect on ex-Pompeians see the letters of Cicero in Tyrrell and Purser, IV, Nos. 423 f.

<sup>4</sup> Dio Cass. XLII, 27 f.; Cicero, *Ad Att.* XI, 23, 3; *Phil.* VI, 11; X, 22; XI, 14; XIII, 26; Plut. *Ant.* 9; Livy, *Epit.* 113.



expenses of the new campaign which would be necessary in Africa. It was no more than the victor's natural right that he should sell off the property of the dead Pompey and his exiled followers, but it was some satisfaction to those who secretly sympathized with his victims that he exacted full payment for that property even from his most loyal followers.<sup>1</sup> His action about the taxes of Asia had shown that he was in no mood to spare the feelings of the wealthy financiers. From individuals and communities suspected of Pompeian sympathies he exacted large sums by means of forced loans. Atticus drew a dividend on his caution by escaping these demands, but there can hardly have been many who were so fortunate.<sup>2</sup>

With the policy of debt cancellation Caesar would still have nothing to do, but he was not, apparently, so hostile to the policy advocated by Dolabella as his deputies had been to that of Caelius. Dolabella was pardoned and one of his measures, the cancellation of all rents below 2,000 HS. for one year, was put into effect.<sup>3</sup> He continued, also, the system adopted in 49 B.C. of valuation of property for the payment of debts.<sup>4</sup> To this he added a law *De modo credendi possidendique intra Italiam* which became a model for similar measures in the future. Its terms are, unfortunately, obscure, but it seems to have laid down that capitalists must invest a certain amount of their money in land in Italy and that any loans they were allowed to make were to be proportionate to the amount of land they owned.<sup>5</sup>

Before departing for Africa, Caesar also provided for the government of Rome and the Empire in his absence by appointing magistrates and provincial governors and by filling up vacancies in the Senate with his own nominees. His new senators were probably selected mainly from men of equestrian rank who had served him well in the army or in some civilian capacity.<sup>6</sup>

The Middle Class cannot have gained much comfort from all this. It was clear that, as soon as Caesar's position was finally secure, he would show still less tenderness for their interests and that the new Senate would be merely his tool. It is not surprising, therefore, that

<sup>1</sup> Cicero, *Phil.* II, 71; Dio Cass. XLV, 28, 4; XLVI, 14.

<sup>2</sup> Nepos, *Att.* 7. Cf. Dio Cass. XLII, 49 f.

<sup>3</sup> Dio Cass. XLII, 51; Sueton. *Div. Iul.* 38, 2. Cf. Cicero, *Off.* II, 83.

<sup>4</sup> Cicero, *Ad Fam.* IX, 18, 4. Cf. 16, 7; XIII, 8, 2; *Ad Att.* XII, 28, 3; Dio Cass. XLII, 50 f.

<sup>5</sup> Tacit. *Ann.* VI, 16. Cf. Sueton. *Tib.* 48 f.; Rotondi, *Leg. Pub.* 420; above, p. 189, n. 1.

<sup>6</sup> We need not take literally the statements of some ancient authors that he promoted centurions, newly-enfranchised foreigners or even ordinary soldiers. We have met a similar distortion of the truth in references to Sulla's Senate. See R. Syme in *J.R.S.* XXVII (1937), 127 f.; *id.* in *Papers Brit. Sch. Rome*, XIV (1938), 1 f.; *id.* *R. Rev.* 78 f.; above, p. 147.

the business men resident in North Africa gave their support to the Pompeians. They contributed liberally to the war chest of the Pompeian leader, Scipio, and Cato, when put in charge of Utica, was able to get together a body of three hundred business men which he called a Senate. But Caesar defeated Scipio at Thapsus and Cato acknowledged the hopelessness of further resistance by committing suicide. Such of his 'senators' as could not escape were glad to save their lives by handing over large sums of money to the victor.<sup>1</sup>

On his return from North Africa in July 46 B.C., Caesar carried out more confiscations and sales of property.<sup>2</sup> His power was now absolute, but he used it with such moderation that it was still possible for Cicero to hope that he intended ultimately to restore the republican system.<sup>3</sup> His reorganization of the corn distributions, reducing the number of recipients by more than half, showed a welcome desire to cut down state expenditure. The limitations placed on provincial governorships, too, represented a long overdue reform. The dictator's attitude to the Middle Class had not changed greatly. They had been his enemies since at least the time of the conspiracy of Catiline.<sup>4</sup> Even when he made concessions to them, as in the case of the Asiatic taxes in 59 B.C.,<sup>5</sup> it was done rather with the purpose of frustrating the Senate than from any goodwill towards the Middle Class. Now he passed measures which seemed designed to reduce their political and economic power. Of these the most important was a judiciary law. As we have seen, the existing juries, based upon the laws of Cotta and Pompey, gave a preponderance of votes to the equestrian jurors and confined jury service to the wealthiest of the two upper classes.<sup>6</sup> Caesar excluded *tribuni aerarii* from the juries and so reduced the proportion of equestrian jurors from two-thirds to a half. Since the other half were senators whose appointment he himself controlled, it was clear that he intended to see that the power of the courts was not used in the interests of either class. He seems also to have cancelled Pompey's law ruling that jurors should be chosen only from the richest of each class and to have reverted to the Gracchan method of defining equestrian jurors by a census

<sup>1</sup> *Bel. Afr.* 87 f.; *Plut. Cato Min.* 59 f.; 71; *Appian, Civ.* II, 95 f. In view of Caesar's policy of clemency, we should almost certainly reject Appian's statement that he put the survivors of the three hundred to death.

<sup>2</sup> *Cicero, Ad Fam.* IV, 13, 2; IX, 10, 3; XV, 17, 2; 19, 3.

<sup>3</sup> See Tyrrell and Purser, *Corresp. of Cicero*, V, p. ix f.

<sup>4</sup> Above, p. 168.

<sup>5</sup> Above, p. 172 f.

<sup>6</sup> Above, pp. 154 f., 178.

amount, which was, presumably, that laid down in the *Lex Roscia*. The very rich thus lost their predominance in the courts.<sup>1</sup>

To a lesser degree, the Middle Class was also affected by two other Caesarian measures of this period. Probably as part of his campaign against luxury spending, Caesar reimposed the Italian customs duties which had been abolished in 60 B.C. The value of the contracts, which were let to *publicani*, would hardly compensate for the loss of trade resulting from this step.<sup>2</sup> Profits were further curtailed by Caesar's reform of the calendar. So long as the priests had controlled it, it had been possible for publicans, in collusion with them, to get the period of their contracts lengthened by intercalation and so to increase their profits at the expense of the state. Caesar's reform, by regularizing intercalation, put a stop to this obnoxious practice.<sup>3</sup>

These were small matters, but they showed that the administration of Rome and the empire was likely to be much more efficient under Caesar's control than under that of the senatorial aristocracy and that, as a result, opportunities for illicit money-making would be curtailed. But there was still uncertainty as to how far, if at all, Caesar would relax his hold upon the government once the civil war was at an end. When, however, he returned, in September of 45 B.C., from his final victory over the Pompeians in Spain, he soon made it clear that there was to be no relaxation. On the contrary, in the six months that remained to him, Caesar established his control over the whole machinery of government. Directly or indirectly, he appointed all magistrates and provincial governors. Fresh additions to the Senate, on the lines of those of 47 B.C.,<sup>4</sup> made that body still more his tool. As a result, he personally supervised the state finances and every corner of the Empire.

All this augured ill for the Middle Class. But there was worse to come. Their field of operations shrank steadily. Vast areas of public land in various parts of the empire were used up for colonies of veterans and other settlers. Immunity from tribute was given to

<sup>1</sup> Above, pp. 110 f., 160. Sueton. *Div. Iul.* 41; Dio Cass. XLIII, 25; Cicero, *Phil.* I, 19 f.; 24. Mommsen's view (*Staatsr.* III, 534 f.) that the Equites still formed two-thirds of the juries is contradicted by Cicero, *Phil.* II, 19, which shows that there were only two *decuriae* under Caesar's law. Carcopino (*Hist. Rom.* 955 f.), following Belot (I, 235; II, 236 f.), makes use of Sallust, *Ad Caes.* II, 7, 11 f. as evidence that Caesar admitted all members of Class I to the juries. But Sallust (if he is indeed the author of the letter) is referring, not to what Caesar did, but to what he himself wished him to do.

<sup>2</sup> Sueton. *Div. Iul.* 43. Cf. above, pp. 53, 172; Cagnat, *Imp. Ind.* 9 f.; De Laet, *Portorium*, 60 f.

<sup>3</sup> Censorinus, *De Die Nat.* 20, 7 f.; Macrobi. *Sat.* I, 14. Cf. Sueton. *Div. Iul.* 40; Dio Cass. XLIII, 26; Ammianus Marcell. XXVI, 1, 12.

<sup>4</sup> Above, p. 192.

provincial cities. Moreover, Caesar's policy of extending Roman citizenship to provincials threatened to deprive Rome of the revenues of whole provinces. Sicily, for instance, was given the Latin right as a first step towards full citizenship. Soon there would be no revenue from there, and who knew where the process would stop?<sup>1</sup>

Nor was it only the political and economic privileges of the Middle Class that were threatened by the new regime. Caesar, despite the importance he attached to his own ancestry, showed a curious blindness to the social pretensions of Senate and Middle Class alike. His open discourtesy to a senatorial deputation is said to have been an important cause of the conspiracy against his life. The equestrian order had, of course, nothing like the prestige of the senatorial class but, like all *parvenus*, it was even more sensitive about its social status. While it is true that any free-born citizen who possessed the requisite census qualification could become an *Eques*, there were, by this time, many who could boast that their families had had equestrian rank for several generations.<sup>2</sup> When, therefore, Caesar permitted, or even encouraged, members of the equestrian order to perform as gladiators and thus forfeit their rank, he was insulting the whole Middle Class.<sup>3</sup> Even more resentment was aroused by his treatment of the playwright D. Laberius. He coerced Laberius into performing in his own mimes and thus forfeiting his equestrian status. With a brutal disregard of the susceptibilities of the other *Equites* present at the performance, Caesar then restored his status on the spot by giving him a gold ring and the sum of 500,000 HS. Laberius himself has recorded his feeling of humiliation. The occupants of the equestrian benches showed their resentment by refusing to make room for him among them.<sup>4</sup>

It is not surprising, therefore, that the Middle Class threw in its lot with the senatorial conservatives against Caesar.<sup>5</sup> According to one ancient authority, the conspiracy against his life was formed by 'sixty

<sup>1</sup> Carcopino, *Hist. Rom.* 986 f.; Meyer, *Caesars Mon.* 483 f. For a list of Caesarian colonies see P.-W. IV, 524 f.

<sup>2</sup> It is wrong to argue from this fact that equestrian rank was hereditary (cf. Belot, I, 186 f., 235; II, 236 f.). Naturally, the son of an *Eques* would expect to take his father's rank, but, so far as we know, he could not do so without satisfying the censors that he had the necessary property. When Cicero (*Phil.* I, 20) says *census praefiniebatur . . . equiti etiam Romano*, he is not making a distinction between *Equites* who possessed the equestrian census amount and those who did not, but merely stressing the fact that a man could not be *eques Romanus* without that qualification. Cf. Mommsen, *Staatsr.* III, 500 f.

For ancient references on this point see Belot and Mommsen, *loc. cit.*; Marquardt, *Hist. Eq. Rom.* 60.

<sup>3</sup> Dio Cass. XLIII, 23; Sueton. *Div. Iul.* 26, 3.

<sup>4</sup> Macrobian. *Sat.* II, 3, 10; 7, 2 f.; VII, 3, 8; Gellius, VIII, 15; XVII, 14; Sueton. *Div. Iul.* 39; Seneca, *Controv.* VII, 3, 9. Cf. Cicero, *Ad Fam.* X, 32, 2. The date of the episode is uncertain, but it belongs to either 46 or 45 B.C.

<sup>5</sup> Cicero, *Phil.* II, 94.

or more senators and Roman Equites'. It goes without saying that the motives of the individual conspirators varied greatly, but behind their action lay the fear of a radical change in the whole structure of the Roman state—a change which would inevitably damage the prestige and power of both Senate and Middle Class.<sup>1</sup>

The tragedy of the Ides of March lies not so much in the death of a great man as in the futility of his murder. For it was followed, not by the restoration of the Republic, but by a period of civil war and strife which ended only with the setting up, by Octavian, of a system of personal rule which was, in all essentials, the same as that which Caesar would have established. In the history of that period the Middle Class played only a minor part. For a short time after the death of Caesar, the assassins seemed to have the support of 'all good men', and Cicero began to hope for a revival of the *concordia ordinum* destroyed by the Triumvirate. Brutus and Cassius were well received by the local aristocracies, mainly equestrian, of the Latin cities near Rome, and were even provided with a bodyguard of young men from those aristocracies.<sup>2</sup> But it soon appeared that the conspirators had no policy, whereas the Caesarians had. The enthusiasm died away. As early as April, L. Aelius Lamia, former leader of the equestrian order in its fight for Cicero in 58 B.C., was a declared Caesarian and Cicero was bemoaning the apathy of the republicans.<sup>3</sup> An attempt to get financial help for Brutus and his party foundered on the refusal of Atticus to commit himself to their cause. He declared his willingness to help Brutus personally with money, and even did so, but he would not finance his party. This example was followed by other rich business men who were approached. The Middle Class lay low and contented itself with demonstrating against Caesar's memory in the theatre.<sup>4</sup>

During the subsequent struggle for power between Antonius and Octavian, they showed the same reluctance to commit themselves. Civil war, they knew, could do them nothing but harm. They postponed as long as they could their choice between the two rivals for the succession to Caesar, though they cannot have failed to resent some of the measures passed by Antonius during his consulship in

<sup>1</sup> Eutropius, VI, 20. Of the conspirators named by ancient writers the majority were of senatorial rank. But at least two, M. Spurius and Petronius, belonged to equestrian families. Cf. Drumann-Groebe, *Gesch. Roms*, III, 627 f.; P.-W. s.vv. *Petronius* and *Spurius*. On the motives of the conspirators see the sensible remarks of E. Meyer, *Caesars Mon.* 530 f.

<sup>2</sup> Cicero, *Ad Att.* XIV, 6, 2; 10, 1; 17A, 1; 20, 4; *Ad Fam.* XI, 2, 1; *Phil.* II, 29; X, 7; above, p. 154.

<sup>3</sup> Cicero, *Ad Att.* XIV, 6, 2; 14, 1; above, p. 175.

<sup>4</sup> Nepos, *Att.* 8; Cicero, *Ad Att.* XV, 3, 2. Cf. *Ad Brut.* I, 17, 3.

44 B.C. For Antonius showed the same disregard for their interests as Caesar had done. Sicily was granted full citizenship by a 'law' attributed to Caesar and Crete was declared to be no longer a province.<sup>1</sup> The judicial power of the Middle Class was seriously weakened by a judiciary law which established a third group of jurors, to be selected from centurions and ex-centurions and even, possibly, from legionaries. Cicero accuses Antonius of having used this law to pack the juries with his own hangers-on.<sup>2</sup>

But, so long as Antonius remained in power, the Middle Class did not dare to protest. They even allowed his friends to set up, in their name, statues to his brother, L. Antonius, for making further land allotments in Italy.<sup>3</sup> Many, too, joined the Senate in the oath of loyalty made to Antonius just before his departure for Cisalpine Gaul to supplant D. Brutus.<sup>4</sup>

But statues and oath alike were forgotten when Cicero, seizing what he thought was a favourable moment, came forward to save the Republic yet again with his coalition of 'all good men'. Large sums were contributed to raise an army against Antonius. The young Octavian was cast for the rôle once allotted to Pompey and the victory of the senatorial army at Mutina seemed to justify optimism.<sup>5</sup> Yet Atticus was sufficiently sceptical of ultimate success to insure against a possible return of Antonius by saving Fulvia, Antonius' wife, from bankruptcy resulting from the war.<sup>6</sup> His caution was soon justified. For Octavian showed even less inclination than Pompey had done to become the mere tool of Cicero's coalition. Denied what he considered to be a just reward for his services, he followed the example set by Pompey and came to terms with Antonius and Lepidus.<sup>7</sup> This Second Triumvirate was even more fatal to the republican cause than the first. Not content with dominating the government in Rome, the partners took a leaf out of Sulla's book and instituted a series of proscriptions in which each vied with the others in callousness. Cicero was their chief victim and with him died the last hope of resisting tyranny. For Brutus and Cassius had delivered the initiative to the Caesarians by retiring to the East. The

<sup>1</sup> Cicero, *Ad Att.* XIV, 12, 1; *Phil.* II, 97; Dio Cass. XLV, 32; XLVI, 23. Cf. above, p. 194. f.

<sup>2</sup> Cicero, *Phil.* I, 19 f.; V, 12 f.; VIII, 27; XIII, 3; 37. The law was cancelled, along with Antonius' other laws, in 43 B.C. (Cicero, *Phil.* XIII, 5, *al.*).

<sup>3</sup> Cicero, *Phil.* VI, 13 f.; VII, 16 f.

<sup>4</sup> Appian, *Civ.* III, 46. But cf. Cicero, *Ad Fam.* XI, 16, 3, where Cicero claims that D. Brutus had the support of the equestrian centuries.

<sup>5</sup> Strasburger, *Conc. Ord.* 69 f. In general, Cicero speaks of his supporters on this occasion as *omnes boni* or *omnes ordines*, but there are specific references to the equestrian order in *Phil.* VII, 21; 27. See above, p. 163 f.

<sup>6</sup> Nepos, *Att.* 9.

<sup>7</sup> Cf. above, p. 172.

chief need of the new rulers of Rome was for money to satisfy the demands of the veteran troops they had recruited and to carry on war against Brutus and Cassius and against Sextus Pompeius. Apart from a few obvious enemies, like Cicero, the victims of their proscriptions were mainly men of the senatorial and equestrian classes who were known to be wealthy. These proscriptions have, indeed, been well described as 'in purpose and essence a peculiar levy upon capital'.<sup>1</sup> Failing to get all the money they required by this means, they imposed a number of special taxes of which the chief was a levy of one year's income on all men with the equestrian property qualification, together with a forced loan of 2 per cent of their property.<sup>2</sup>

Such exactions were naturally bitterly resented by men of property. But the Triumvirs were unassailable in Italy and there was little to be hoped from either Brutus and Cassius or Sextus Pompeius. To leave Rome to join either of these republican remnants meant certain loss of all a man's property. In general, therefore, it was only those whose lives were endangered who took this desperate step. There is no evidence of any large additions to the republican forces as a result of the proscriptions and the subsequent demands for money.<sup>3</sup> Moreover, as in the previous civil war, the republicans resorted to a blockade of Italy which injured their friends as much as their enemies. The Caesarian victory at Philippi at least restored freedom of movement for merchants and other business men in the East.<sup>4</sup>

The period between the Battle of Philippi and the final victory of Octavian over Antonius at Actium was one of acute anxiety and incessant losses for the Middle Class. But they no longer had any power to intervene effectively in politics. Votes in the Assembly counted for little and even their judicial power could not be exercised freely. Like every other class in Italy, they suffered in the economic reorganization which Octavian carried through in these years. Fresh burdens of taxation and the confiscation of their land for veteran settlement drove some of them to join in the attempt of L. Antonius to overthrow Octavian in favour of M. Antonius. Some lost their lives as a result of his failure at Perusia.<sup>5</sup> This, and the final crushing of Sextus Pompeius in 36 B.C., taught them that they must make a definite choice between Octavian and Antonius. Of the two,

<sup>1</sup> Syme, *R. Rev.* 195; Dio Cass. XLVII, 3 f.; Appian, *Civ.* IV, 5 f.; 96; Livy, *Epit.* 120; Orosius, VI, 18, 12.

<sup>2</sup> Appian, *Civ.* IV, 34; 96; Dio Cass. XLVII, 14 f.; XLVIII, 43; Zonaras, X, 17 f.; Plut. *Ant.* 21.

<sup>3</sup> E. Meyer, *Caesars Mon.* 544.

<sup>4</sup> Appian, *Civ.* V, 15; 67; Dio Cass. XLVIII, 31.

<sup>5</sup> Dio Cass. XLVIII, 6 f.; Appian, *Civ.* V, 28. Cf. Syme, *R. Rev.* 207 f.

Octavian had the stronger claim to their support, despite the losses he had caused them. For he belonged by birth to the Middle Class and was regarded as the least guilty of the Triumvirs in the matter of the proscriptions. Many prominent individual financiers and business men were his personal friends.<sup>1</sup>

Much of the propaganda which Octavian carried on against the absent Antonius was directed towards the Middle Class. The eastern provinces, which Antonius controlled, were still potentially a rich source of revenue to that class, despite the large sums exacted from them during the wars. But Antonius showed little concern for the revenues, or even for the safety, of those areas. He allowed them to be partially overrun by the Parthians and was very lax in his counter-measures.<sup>2</sup> Worse still, he planned to give away considerable territory in the East to Cleopatra and her children.<sup>3</sup> Octavian took care to give publicity to all this, and he finally completed the conversion of the Middle Class by publishing Antonius' will, whereby still more of Rome's empire and revenues were to be handed over to the Egyptian royal family.<sup>4</sup>

Compared with this wholesale transference of territory, Octavian's demands for money for the now inevitable war with Antonius, though grievous, were only temporary. There was hope that he would be able to reimburse the rich by the recovery of the eastern provinces and even make still greater wealth available by the annexation of Egypt itself. On his departure for the final struggle at Actium, therefore, he was seen off from Brundisium by a crowd of senators and Equites, and men of both classes were there to welcome him back after his victory.<sup>5</sup> At last the Middle Class were on the winning side. No doubt they had great hopes of a share in the spoils of victory. But Octavian, once established as Emperor, had other ideas. He had no intention of allowing the Middle Class to return to the anomalous position they had held under the Republic. Their energy and ability were henceforth to be employed, not in the pursuit of private gain, but in the service of the state.

<sup>1</sup> Syme, *R. Rev.* 131 f.

<sup>2</sup> Dio Cass. XLVIII, 24 f.; Appian, *Civ.* V, 6 f.; Plut. *Ant.* 24.

<sup>3</sup> Dio Cass. XLIX, 32; 41; Plut. *Ant.* 36; 54.

<sup>4</sup> Dio Cass. L, 1 f.; Plut. *Ant.* 58; Sueton. *Aug.* 17. Cf. Syme, *R. Rev.* 283.

<sup>5</sup> Dio Cass. L, 11; LI, 4; Zonaras, X, 29; 30.



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NOTE: Part I (Special Studies) aims at being a complete list of books and articles (except those in encyclopædias) published on the equestrian order since 1830. One or two items have been omitted as of no value.

In referring to these works in the notes only the name of the author has been given, except where more information is necessary to avoid confusion.

The works listed in Parts II and III are those which have proved most useful in the compilation of this book.

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## APPENDIX I

### THE SEX SUFFRAGIA

THE view adopted in the text about the *Sex Suffragia* is not universally accepted, and it seems necessary, therefore, to give a more detailed defence of it. We must first consider the very meagre ancient evidence.

There are only two passages of ancient authors in which the full title is used, and in both, unfortunately, the meaning is far from clear. It will be best to begin by citing these two passages:

Cicero, *De Republica*, II, 22, 39 (ed. Ziegler, Teubner. 1929). (From the account of the Servian constitution.)

*Nunc rationem videtis esse talem ut equitum centuriae cum sex suffragiis et prima classis addita centuria quae ad summum usum urbis fabris tignariis est data LXXXVIII centurias habeat: quibus ex centum quattuor centuriis—tot enim reliquae sunt—octo solae si accesserunt, confecta est vis populi universa. . . .*

(The text is apparently quite sound, as given by the second hand, that of the first hand making nonsense.)<sup>1</sup>

Festus, p. 452, s.v. *Sex suffragia* (ed. Lindsay, Teubner. 1913).

*Sex suffragia appellantur in equitum centuriis, quae sunt adiectae ei numero centuriarum; quas Priscus Tarquinius rex constituit.*

(The MS. has *adfectae*, but the change to *adiectae* is both simple and necessary. Both text and punctuation have been confirmed by Professor Lindsay in a letter to me, in which he explains his interpretation of the passage. The omission of the semi-colon after *centuriarum* in his larger edition (*Glossaria Latina*, IV. Paris, 1930) is, he informs me, a misprint.)

In addition, there are two other passages of Cicero which have been held to refer to the *Sex Suffragia*. These are:

*De Republica*, IV, 2, 2 (apparently another eulogy of the Servian system): *Quam commode ordines descripti, aetates, classes, equitatus, in quo suffragia sunt etiam senatus . . .*; and *Philippics*, II, 33, 82 (Antonius' interruption of the election of Dolabella): *Ecce Dolabellae comitiorum dies. Sortitio praerogativae; quiescit. Renuntiatur; tacet. Prima classis vocatur, renuntiatur; deinde ita ut adsolet suffragia, tum secunda classis; quae omnia sunt citius facta quam dixi.*

(This is the MSS. text. Modern editors, following Madvig, delete the second *renuntiatur* (after *vocatur*). Other suggested emendations are: *vocatur: renuntiantur deinde . . .* (Gerathewohl, *Die Reiter* etc. 95 f.). *deinde ita ut adsolet suffragatum secunda classis vocatur* (Belot, I, 234, following Le Clerc). *adsolet (sex) suffragia . . .* (Mommsen, *Röm. Trib.* 98). *adsolet suffragia (equitum) . . .* (Mommsen). *deinde VI ut adsolet suffragia* (Hirschfelder quoted in P.-W. s.v. *Sex Suffragia*.)

In two passages of Livy, also, there is mention of a distinction between the old

<sup>1</sup> The implications of this passage for the history of the *Comitia Centuriata* are discussed above, p. 13 f., 39 f. and in the numerous works dealing with the Reform of the *Centuriata* (see Bibliography). I incline to the view expressed by Klebs, *Die Stimmzahl*, and accepted by De Sanctis, *Storia*, III, 1, 354 f.

six and the newer twelve equestrian centuries. They are I, 43, 8-9 (with which cf. I, 36, 8) and XLIII, 16, 14. But Livy nowhere uses the phrase *sex suffragia*.<sup>1</sup>

Such is the ancient evidence. Clearly we must rely mainly on the first two passages quoted. Cicero states quite clearly that the *centuriae equitum* + the *Sex Suffragia* + Class I + 1 extra century make up 89 votes, and this total is confirmed by the arithmetic which follows. As there were 70 centuries in Class I, the *centuriae equitum* must have been 12. The natural conclusion is that the phrase *centuriae equitum cum sex suffragiis* is only another way of describing the eighteen equestrian centuries. Most modern scholars accept this view, and take the further logical step of identifying the *Sex Suffragia* with the six older centuries, as has been done in Chapter I.

Attempts have been made to alter the text of either the first or second hand. But this is a desperate proceeding, and the purpose of such attempts has usually been either to make Cicero agree with Festus or to support some preconceived theory.<sup>2</sup> We can, therefore, safely ignore them, as indeed modern editors of Cicero do.

Festus presents us with a problem which is mainly one of interpretation. The passage (with a comma in place of the semi-colon after *centuriarum*) has usually been taken to mean, '*Sex Suffragia* is a name given to those among the equestrian centuries which were added to the total of centuries established by king Tarquinius Priscus'. Festus thus appears to identify the *Sex Suffragia* with the later equestrian centuries, added, according to tradition, by Servius Tullius, and so to state the exact opposite of the usually accepted view. His version thus conflicts, not only with that of Cicero, but also with all the ancient accounts of the growth of the equestrian centuries.<sup>3</sup>

We are faced, therefore, with two alternatives. Either we must weigh the evidence of Festus against that of the other ancient authorities, or we must somehow reconcile the two accounts. Some scholars, accepting the first alternative, have, perversely in my opinion, defended Festus as the more reliable authority, on the ground that he followed Verrius Flaccus.<sup>4</sup> By so doing they have involved themselves in all sorts of difficulties, and even gone to the length of tampering with the text of Livy to make his account agree with their interpretation of Festus.<sup>5</sup> If we are to choose between Festus and the others, it is surely more reasonable to follow Livy and Cicero, who have at least a consistent version of the whole subject. This isolated and obscure passage of Festus<sup>6</sup> appears to conflict even with his own references elsewhere to the same subject.<sup>7</sup>

The second alternative (of reconciling the two versions) has led to the suggestion to emend the Festus passage, reading *effectae* for *adfectae* and *eo* for *ei*, in an attempt to make Festus agree with the others.<sup>8</sup> Apart from the boldness of the emendation (it is not even recorded by Lindsay), the text that results gives no very clear sense. Much more reasonable and fruitful is the simple change of punctuation

<sup>1</sup> Rosenberg (*Zent.* 50) suggests the substitution of *suffragia* for *centurias* in I, 36, 8, but without justification.

<sup>2</sup> e.g. Lange, *Kl. Schr.* I, 227-34.

<sup>3</sup> See above, p. 3 f.

<sup>4</sup> Muhlert, 10-12, following Reisig and Goettling; Rubino in *Z.f.Alt.* IV (1846), 212 f.; Gerathewohl, § 21.

<sup>5</sup> e.g. Goettling, quoted by Muhlert, *loc. cit.*

<sup>6</sup> Some scholars (e.g. Huschke, *Die Verfassung*, 348 f.; Marquardt, *Hist. Equ. Rom.* 5; and Belot, I, 387) regard the passage as too obscure to be given any weight.

<sup>7</sup> pp. 168-9, s.v. *Navia*; and pp. 468, 475, s.v. *Sex Vestae sacerdotes*.

<sup>8</sup> Rein, *Quaest. Tull.* 9. Cf. Marquardt, *op. cit.* 5, n. 15; Peter, *Epochen*, 12, n.

(from comma to semicolon after *centuriarum*) made by Professor Lindsay. His interpretation of the passage is: 'In talking of the *equitum centuriae* the phrase *sex suffragia* is used. For six was the older number of centuriae, the others being subsequently added to that older number. These older six were those of Tarquinius Priscus.' I have suggested elsewhere a somewhat different interpretation of Professor Lindsay's text, which would give the meaning: 'There is a section of the equestrian centuries known as the *sex suffragia*, and their name is tacked on to that of that group of centuries: they (the *sex suffragia*) were established by king Tarquinius Priscus'.<sup>1</sup> Either of these explanations of Festus' statement, both of which, I believe, are possible, would solve our difficulty by making him agree with the other authorities without doing violence to the texts as we have them.

The other four passages of ancient authors referred to may be dealt with more briefly. It is tempting to connect Cicero, *Repub.* IV, 2.2. with the other passage in the 'Republic', and so equate *suffragia senatus* with *sex suffragia*. It is possible, however, that *suffragia* there means simply 'votes', so that there can be no certainty that the *Sex Suffragia* are referred to. Cicero *Philipp.* II, 33, 82. is a still more difficult case. I have mentioned above the most important suggestions made about the text. The passage has been the subject of much controversy, and a good deal of elaborate theory has been based on it.<sup>2</sup> Here again one is tempted to see in *suffragia* the equivalent of *sex suffragia*, and the emendations suggested to make this clear are easily made—but so also is the emendation proposed by Gerathewohl, which would give *suffragia* its ordinary meaning and would preserve *renuntiator* of the MSS. which others sacrifice. It is obvious that this cannot be made a key passage.

The two passages of Livy need no comment. His version is clear, and without actually mentioning the *Sex Suffragia* gives support to the theory here accepted.<sup>3</sup>

In addition to the question of which of the equestrian centuries had the title of *Sex Suffragia*, we have to face two other problems connected with this group: what was the origin of the title? And what difference, if any, was there between those six centuries and the other twelve?

Beyond the obvious assumption that the title reflects the voting functions of the centuries, we have no evidence about its origin. The field is thus open to any amount of theorizing. All that can be done is to record the chief theories and the arguments used to support them, leaving the reader to take his choice.

Clearly there are two possible lines of argument. Either the title is earlier than that of *centuriae*, the title used for the other twelve groups, and its origin must be sought in some voting function performed by the older group of centuries before the Servian Reform—or it is post-Servian and refers to the voting in the *Comitia Centuriata*.<sup>4</sup> Both these explanations have found supporters. For the view that the title is pre-Servian the main argument is the antiquity of the six centuries themselves, because, it is argued, the oldest group would naturally retain the oldest title.

<sup>1</sup> *A.J.P.* LVIII (1937), 458–9.

<sup>2</sup> See Denniston's edition (Oxford, 1926) *ad loc.* and his references, to which add De Sanctis, *Storia*, III, 1, 360 f.

<sup>3</sup> It is sheer perversity to adopt any but the usual view of these passages. See, e.g., the laboured ingenuity of Rubino, *loc. cit.* On Livy XLIII, 16, *cf.* above, p. 16.

<sup>4</sup> We need hardly consider the theory of Lange (*R. Alt.* I, 445; II, 511 f.), i.e. that *Sex Suffragia* was used of all the eighteen centuries after the Reform of the *Centuriata*, because they then voted in groups of three centuries each. The difficulty he has in explaining, on this assumption, the reference to twelve and eight centuries in Livy XLIII, 16, is enough to make his theory untenable.

If this is correct, it implies, as has been said, that the *Sex Suffragia* had some voting functions before the Servian Reform. What these were it is idle to conjecture, though Rosenberg, who accepts this view, has some ingenious theories.<sup>1</sup> Others see in the title a trace of an early form of the *Comitia Centuriata*, containing only six equestrian voting units.<sup>2</sup> If, on the other hand, the title is post-Servian, and if we are correct in our identification of the *Sex Suffragia* with the six oldest centuries, then there must have been a change of name, since these six centuries were originally called *Rhamnes*, *Tities* and *Luceres*.<sup>3</sup> The change may have been due, as Marquardt suggests, to the fact that *centuria*, the title given to the later twelve centuries, was taken from the *centuriae* of infantry, and was therefore regarded as unsuitable for the six patrician groups.<sup>4</sup> Another possibility, and one which I incline to accept as the best explanation of the mystery, is that the change of name marks the change in the composition of the six groups. Originally exclusively patrician and consisting of active service cavalry, they came, I believe, to be made up of senators and perhaps others too old for active service.<sup>5</sup> Being thus no longer patrician they lost the old patrician titles. The new title reflected the almost entirely political nature of their functions.

To the third main problem—the difference, if any, between the *Sex Suffragia* and the other twelve centuries—I have attempted to give an answer in the text. It may be briefly summarized here. Originally the difference was one of birth, the *Sex Suffragia* being patrician, the others including both patricians and plebeians. How long this stage lasted we do not know—probably not very long—and then came the admission of plebeians to all the centuries. By the action of the censors, senators began to be allowed to retain the public horse, and probably they were put in the old six groups, perhaps alone, perhaps with others. This is the time, when, as we have seen above, the title *Sex Suffragia* was probably given to these groups. This stage lasted until the *plebiscitum* of 129 B.C.,<sup>6</sup> when senators were excluded from the equestrian centuries. After that there was, I think, no difference, beyond the difference of title, between the two groups of centuries.

It is, perhaps, worth while to mention some of the chief alternative theories put forward. Some scholars maintain that there was never any real difference between the two groups.<sup>7</sup> M. Naudet<sup>8</sup> adopts a theory almost diametrically opposed to the one given above. He believes that the *Sex Suffragia* were the active service cavalry and the other twelve centuries a reserve. In support of this view, he attempts, unsuccessfully, to prove that only the former had the *equus publicus*. Others regard the difference as a purely military one, making the *Sex Suffragia* a reserve for the other twelve centuries, which they regard as the active service cavalry.<sup>9</sup> Rubino,<sup>10</sup> with great ingenuity, puts forward the view that the *centuriae equestrum* were only twelve in number, the *Sex Suffragia* being men with the equestrian property qualification but no *equus publicus*, but in doing so he does much violence to the authorities. Karlowa<sup>11</sup> has an elaborate theory that the twelve centuries were pre-Servian, with a high property qualification, while the *Sex Suffragia* were purely patrician groups added by Servius—a curious perversion of the evidence.

<sup>1</sup> *Zent.* 61 f.

<sup>2</sup> e.g. Botsford, *R. Assemblies*, 209.

<sup>3</sup> Above, p. 3 f.

<sup>4</sup> Marquardt, *Hist. Equ. Rom.* 5–6.

<sup>5</sup> Above, p. 9 f.

<sup>6</sup> Above, p. 105 f.

<sup>7</sup> e.g. C. G. Zumpt, 20–21; Gerathewohl, 67 f.

<sup>8</sup> *De la Noblesse*, 33 f. Cf. Ihne, *Forsch.* Appendix.

<sup>9</sup> e.g. J. J. Müller in *Philol.* XXXIV (1876), 96 f.; Brüncke in *id.* XL (1881), 357 f.; Belot, I, 140 f.; Bouché-Leclercq, *Manuel*, 27–8; Dar. et Sag. s.v. *Equites*; Marquardt, *Hist. Equ. Rom.* 6 f.

<sup>10</sup> *Z.f.Alt.* IV (1846), 212 f.

<sup>11</sup> *Röm. Rechtsgsch.* 75 f.

## APPENDIX II

### THE LEX AURELIA

THE voluminous modern literature on this law has somewhat obscured the ancient evidence, which seems to be decisive for the view expressed on p. 260 f. It is a view already suggested by J. D. Denniston in Appendix II of his edition of Cicero, *Philippics* I and II (Oxford, 1926), but only to be dismissed by him as 'not very natural'. Having reached the same conclusion independently, I see nothing unnatural about it.

There is general agreement that the final form of the law was as stated by Asconius and the other commentators on Cicero, and that versions such as that of Livy (*Epit.* 97), Plutarch (*Pomp.* 22) and Tacitus (*Ann.* XI, 22, 10)—i.e. that the law restored equestrian control of the courts—or of Velleius Paterculus (II, 32, 3; with which cf. Schol. Gronov. p. 386 (Or.))—i.e. that it shared the juries between senators and Equites—are either mistaken or due to inadequacy of expression.

There is, however, disagreement as to how the last two groups—Equites and *tribuni aerarii*—were made up. It is natural to assume that the former were the same as the jurors of C. Gracchus who had controlled the courts before Sulla, and this has been the usual view of them. But there is an alternative theory that they were a more restricted group—members and/or ex-members of the eighteen centuries of *equites equo publico*.<sup>1</sup> The main support of this theory comes from the statement of Asconius (p. 17) that Pompey's judiciary law of 55 B.C. laid it down that the jurors were to be selected from the same three groups but *amplissimo ex censu*—which is held to mean that the *Lex Aurelia* must have applied some other criterion than property. The argument is unsound, however, since all that *amplissimo ex censu* need mean is that Pompey insisted that the jurors selected were to be those with the largest property amount within the groups defined by the Aurelian law.<sup>2</sup> Those groups could quite well be themselves census groups, and, in fact, Cicero, *Phil.* I, 20, is clear proof that a census qualification was demanded by both laws.

Against the view that the Equites of the Aurelian law were different from the Gracchan jurors there is decisive evidence in the usage of Cicero, which is important in this respect because, according to the Elder Pliny (*Nat. Hist.* XXXIII, 34) it was Cicero who established *equites* as the title of the jurymen, who had before been called simply *iudices*. In the speeches delivered after the passing of the Aurelian law, Cicero uses *equites Romani* or *equester ordo* indiscriminately to refer to contemporary jurors, Gracchan jurors and business men of the Middle Class. There is no sign of any distinction between pre-Sullan and post-Sullan jurors or between either and the general mass of the Middle Class.<sup>3</sup>

<sup>1</sup> Strachan-Davidson, *Problems*, II, 91 f.; C.A.H. IX, 75 f.

<sup>2</sup> For a different view see A. Momigliano in *Bull. d. Com. Archaeol. Munic.* 59 (1932), 173 f.

<sup>3</sup> An excellent example is the speech *Pro Fonteio*, delivered in 69 B.C. In § 26, Cicero refers to *illi equites Romani . . . qui nuper in re publica iudiciisque floruerunt*—i.e. the Gracchan jurors. In § 32 he uses *equites Romani* to refer generally to business men in Gaul, whereas in § 36 he refers to the jurors in the court he is addressing as *senatores equitesque populi Romani*. Cf. *Pro Cluentio* (66 B.C.), 121; 130; 145; 150–60; *Pro Rab. Perd.* (63 B.C.), 20; 24; 27; *Pro Plancio* (54 B.C.), 23, etc., etc.

The *tribuni aerarii* present a more difficult problem. Our scanty evidence makes it impossible to trace any clear link between those used as jurors after 70 B.C. and the earlier paymasters. Although the functions of the latter had long been taken over by the quaestors, it is quite consistent with Roman practice in such matters that the office should have continued as a sinecure, conferring little more than social prestige. To make this assumption is at least preferable to adopting the view that Cotta revived a title which had been long disused.<sup>1</sup>

If it be granted that the *tribuni aerarii* of 70 B.C. had a direct descent from the primitive paymasters, it is a reasonable assumption that they were appointed in the same way. We have no evidence about the method of appointment, but the specific duties which the paymasters originally performed in connection with the payment of troops could obviously not be carried out by an indeterminate number of people defined by such a qualification as a census amount. No doubt there were certain basic qualifications—such as e.g. a census rating—required before a man could seek the office, but there must also have been some process of selection, probably by a vote of their fellows in the tribe. It was this element of popular selection which was probably responsible for the inclusion of the *tribuni aerarii* in the juries, since it would go some way towards satisfying the demand of the tribunes for a more democratic basis of selection for jury service.<sup>2</sup>

As has been said, to accept the existence of such a process of selection means to abandon the view that the *tribuni aerarii* were simply a census group. It is commonly asserted that they were men with a property qualification lower than that of the Equites—usually stated to have been 300,000 HS. This theory is based upon the most tenuous evidence, resting, as it does, upon two passages, both of which can be differently interpreted—Suetonius, *Aug.* 32, and Schol. Bob. p. 340 (Or.). Suetonius says of Augustus: *ad tris iudicum decurias quartam addidit ex inferiore censu, quae ducentariorum uocaretur*. Now the same author (*Div. Iul.* 41) tells us that Julius Caesar had excluded the *tribuni aerarii* from the juries. What the third *decuria* of jurors consisted of when Augustus added the fourth we do not know, but there is no evidence whatever that the *tribuni aerarii* had been restored to the juries or that the third *decuria* contained men with a lower census rating than that of the Equites.<sup>3</sup> Therefore the fact that Augustus selected his new fourth *decuria* from the *ducentarii*—men with a census qualification of 200,000 HS.—is not evidence that there existed, or ever had existed, jurors with a census rating of 300,000 H.S., still less that that was the census amount of the *tribuni aerarii*. It would, in fact, be more reasonable to identify the *tribuni aerarii* with the *ducentarii*.

The passage of the Schol. Bob. is even less convincing as evidence. It runs: *quod amissis trecentis uel quadringenis milibus quae a reo acceperant, in egestatem reuoluerentur ac propterea in iudicum (numerum posthac referri non possent.)* The amounts mentioned are bribes, not census amounts, and it would be absurd to suggest that the bribed jurors had received exactly the sums required to make them jurors. Even if it is not a pure coincidence that 400,000 H.S. was the equestrian census rating, it is a highly speculative procedure to argue from this that 300,000 was the rating of the *tribuni aerarii*.

A still more damaging argument against the theory that the *tribuni aerarii* were merely a census class is the fact that Cicero quite clearly includes those of them who

<sup>1</sup> See, e.g., Madvig, *Opusc. Acad.* 597 f.

<sup>2</sup> Cf. Dio Cassius, XLIII, 25.

<sup>3</sup> On the judiciary law of M. Antonius see above, p. 197.

served as jurors under the title of *equites Romani*.<sup>1</sup> This is, as we have seen, a title given by Cicero to all those, whether jurors or not, who belonged to the equestrian Middle Class, which was defined by a census amount and by nothing else. To say that, when Cicero alluded to the *tribuni aerarii* on a jury as *equites Romani*, he was giving the title to men with a lower census rating out of courtesy or to flatter them is to render his terminology meaningless.<sup>2</sup> It was of the utmost importance, for instance, that when he was discussing, in the *Pro Cluentio* (150 f.), the liability of non-senatorial jurors to trial for corrupt practices he should be precise in his use of words. Yet here he makes no distinction between jurors who were Equites and those who were *tribuni aerarii*. The repeated identification of the two groups can only mean that *tribuni aerarii* admitted to a jury had to possess the equestrian census qualification.

It does not, of course, follow that all *tribuni aerarii* had to possess that census qualification. Their minimum census rating, if one was required of them, may well have been lower than that of the Equites. Nor is there anything out of the ordinary in their being spoken of separately by Cicero as a group alongside the Equites.<sup>3</sup> The case is precisely similar to that of the *publicani*, who are spoken of as an *ordo*, and also, though they were not necessarily all Equites, as containing *flos equitum* (Cicero, *Planc.* 23). The *Lex Aurelia* brought the *tribuni aerarii* into prominence, and it is significant that all Cicero's allusions to them as a class occur in speeches subsequent to that law. The fact that the reference in the *Pro Rabirio* is to the year 100 B.C. cannot be taken as proof that, as a class, they possessed any political importance in that year. It merely shows that they were sufficiently well known as a group in 63 B.C. to make it worth Cicero's while to mention them separately.

We may therefore conclude that the *tribuni aerarii* were the holders of a sinecure office raised from obscurity by the fact that some of them, who also possessed the *census equester*, were admitted to the juries in 70 B.C.

<sup>1</sup> See the references in note 1, p. 156, above.

<sup>2</sup> So, e.g., Rice Holmes, *Rom. Repub.* I, 391 f.

<sup>3</sup> *Rab. Perd.* 27; *In Catil.* IV, 15; *Planc.* 21.

## APPENDIX III

### THE EQUESTRIAN INSIGNIA

THE subject is obscure and the available evidence has been variously interpreted.<sup>1</sup> Two of the five insignia usually connected with equestrian rank, the *trabea* and the *phalerae*, were worn by members of the equestrian centuries only. The *trabea*, a purple cloak, was a ceremonial dress worn at the *Transvectio* and on other public occasions.<sup>2</sup> The *phalerae*, metal discs, usually of silver, worn on the breast, were military decorations.<sup>3</sup>

Of the other three insignia only one, the gold ring, was certainly worn by members of the equestrian order in the republican period. In early Rome, when gold was scarce, the privilege of wearing gold rings was restricted to senators of curule rank and their families. The state would sometimes provide such a ring for an ambassador.<sup>4</sup> The right seems to have been extended, subsequently, to all members of the Senate and their families.<sup>5</sup> From the sons of senators serving in the cavalry the use of the gold ring probably spread to all members of the equestrian centuries.<sup>6</sup> It was also worn by military tribunes.<sup>7</sup> It appears that a general had the right to confer a gold ring as a reward for distinguished service in the field.<sup>8</sup> It was natural, therefore, that the Middle Class, having adopted the title *Equites*, should also adopt the practice of wearing gold rings. By the time of Sulla the grant of such a ring had, on the analogy of the military distinction, become the recognized method of conferring equestrian rank, as Sulla did on the actor Roscius.<sup>9</sup> If the person thus honoured did not possess the necessary census qualification (and sometimes even, as in the case of Laberius, if he did) it was customary for him to be given enough money to enable him to fulfil that condition.<sup>10</sup> The privilege of wearing the gold ring was so much abused that the emperors Tiberius and Caligula had to make laws to regularize it.

The golden amulet known as the *bullā aurea* seems to have had a history similar to that of the gold ring. Worn originally by the sons of the curule nobility, it came to be worn by the sons of men who had served in the cavalry. The equestrian order probably borrowed the practice. The gold *bullā* eventually came to denote simply free birth.<sup>11</sup>

The last, and most obscure, case is that of the narrow purple stripe (*angustus clavus*) worn on the tunic. In the imperial period senators and their sons wore a

<sup>1</sup> See especially Stein, 30 f.; Mommsen, *Staatsr.* III, 514 f.; Belot, I, 216 f.; II, 357 f.

<sup>2</sup> Above, p. 38 f. Cf. P.-W. s.v.

<sup>3</sup> See P.-W. s.v.

<sup>4</sup> References in Stein, *loc. cit.*

<sup>5</sup> Livy, XXVI, 36, 5.

<sup>6</sup> Livy, XXIII, 12, where *primores equitum* almost certainly means the *equites equo publico*. For other references see Stein, *loc. cit.* Cf. Plautus, *Curculio*, 584 f., where the implication is that Therapontigonus, by losing his ring, has been degraded to the infantry.

<sup>7</sup> Appian, *Pun.* 104. It is perverse to restrict the meaning of *χιτάριος* here to men of senatorial family, as does Stein.

<sup>8</sup> Cicero, *Verr.* II, 3, 185 f.

<sup>9</sup> Macrobius, III, 14, 13.

<sup>10</sup> Above, p. 195 (Laberius). Cf. Cicero, *Verr.* II, 1, 157; 2, 29; 3, 176; 185 f.; 4, 58; Sueton. *Div. Iul.* 33; Dio Cass. XLVIII, 45, 7 f.; Pliny, *Nat. Hist.* XXXIII, 12 f. Pliny's account is inaccurate.

<sup>11</sup> Pliny, *Nat. Hist.* XXXIII, 10; Macrobius, I, 6, 8 f. Cf. Livy, XXVI, 36.



broad stripe (*latus clavus*) and Equites a narrow stripe, and this was a recognized method of distinguishing between the two orders.<sup>1</sup> We know that senators wore the *latus clavus* in the republican period, but there is no direct evidence that the equestrian *angustus clavus* dates back to that period. One of the regular ways in which senators, in the Republic, showed sorrow or indignation was by laying aside the gold ring and the broad-striped tunic.<sup>2</sup> Dio Cassius twice speaks of their assuming equestrian dress (*ἡ ἱππῆς εὐθής*) after laying aside their senatorial garb.<sup>3</sup> He does not tell us what this dress was, and he may well be transferring to the republican period a practice belonging to the imperial period. But, if he is not guilty of anachronism, these passages are evidence that the equestrian *angustus clavus* was worn in republican times.<sup>4</sup>

<sup>1</sup> Pliny, *Nat. Hist.* IX, 127; XXXIII, 29; Vell. Pat. II, 88, 2; Sueton. *Aug.* 73, etc.

<sup>2</sup> e.g. Livy, IX, 7, 8; Pliny, *Nat. Hist.* XXXIII, 29.

<sup>3</sup> Dio Cass. XXXVIII, 14, 7; XL, 46, 1; above, p. 15.

<sup>4</sup> Mommsen, *Staatsr.* III, 514, n.; De Sanctis, *Storia*, IV, 1, 553; Stein, 48 f.

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